California Journal

THE MONTHLY REPORT OF STATE GOVERNMENT AND POLITICS

Two paths to reapportionment

Chicano politics in California

Few women in the judiciary

Berkeley: lessons for others?

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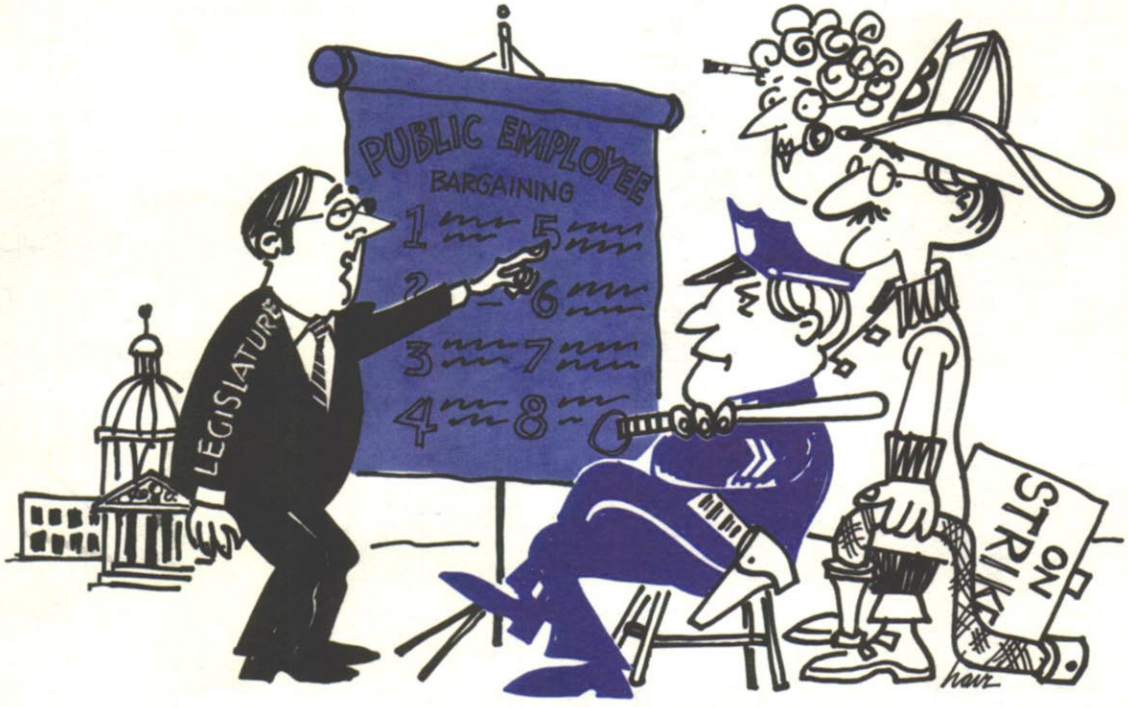
State begins solid-waste planning



Public employee relations decision due

May 1973

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Florida and the ERA

We happened to be in Tallahassee the day the Florida House of Representatives voted against the Equal Rights Amendment, sealing its fate at least for this year. It was a warm, sultry day outside, but, inside the new, concrete and glass (not quite completed) House Office Building, flocks of women were moving briskly in and out of the representatives' offices, stopping members in the hallways to give them a quick, hard sell, and huddling by the elevators to count votes again and to discuss tactics. The Florida Senate refused to act upon a ratification resolution introduced in the upper house, and so it was up to the lower house to force the issue, if it was in a mood to do so. As it turned out, it wasn't. Reportedly, there were as many as eight uncommitted votes in the lower house, and it was evident that women opponents were working just as hard as women favoring ERA. In the crunch, the men (there are only seven women in the 120-member Florida lower house) apparently decided to stick with the *status quo*. Whatever else the loss for ERA that day may signify, it certainly suggests that women must work harder to elect their own representatives to the state legislatures if they are to gain a real voice in state affairs.

Finding a home for Nixoniana

On the 44th floor of the Arco Tower at 515 South Flower Street in Los Angeles and next to the office of Leonard Firestone, Loi Gaunt is quietly at work as executive director and sole employee of the Richard Nixon Foundation, whose volunteer board Firestone heads. The foundation first met on September 3, 1969, before the inaugural year of the Nixon presidency was out, to lay the groundwork for a library and museum dedicated to the life and works of Richard Milhous Nixon, 37th President of the United States. (The original directors who filed incorporation papers on May 20th, 1969, incidentally, included Nixon's close campaign and presidential advisors, John Ehrlichman and H. R. Haldeman, former Attorney General and campaign manager John Mitchell, and former White House aide Robert Finch, but none of these is listed among the foundation's officers this year.)

Now in its fourth year, the foundation is moving slowly toward picking a site, Firestone told us recently, but no fund-raising has yet been undertaken (though the members of the board have made personal contributions to meet expenses so far). "We're not too active at the moment," Firestone said. "There are too many other things occupying the front burners. It's hard to get anyone's attention for a thing like this right now." But he expects to settle the question of where to put the Nixon Library "one of these days soon." It will likely be in southern California, he said, because that's where Nixon, a native of Whittier, wants it to be. In fact, the City of Whittier has one of three locations under study. "We're also talking with the Irvine people at Newport," Firestone said, and a third possible site is near the President's home in San Clemente.

Once a site is picked, an architect will be hired to make a rendering, which will be submitted to the President who, Firestone said he understands through mutual friends ("he didn't tell me personally"), rather fancies an "early California" design. Depending on the cost of the land — and the Nixon Foundation will accept contributions — Firestone estimates that the eventual library and museum will cost "six, eight, ten million dollars".

"By tradition," Loi Gaunt explained, "the papers of an administration are the President's. In the early days, of course, they would take them away in a few cartons." That's no longer the case, and Franklin Roosevelt figured on installing his four-term accumulation of papers, gifts, and memorabilia in his Hyde Park home upon retirement. In 1955, Congress passed the Presidential Libraries Act, and now the collections of each President since Herbert Hoover are preserved by the National Archives in individual libraries — Hoover's at West Branch, Iowa, Roosevelt's at Hyde Park, Harry S. Truman's at Independence, Mo., Dwight D. Eisenhower's in Abilene, Kansas, and the Lyndon Baines Johnson Library opened recently in Austin, Texas. When completed on a site along the River Charles in Cambridge, Mass., the John Fitzgerald Kennedy Library will complete the historic continuity from 1929. (The papers of the preceding 30 Presidents — amounting to some 17 million pages — are mostly located in the Library of Congress.)

Gaunt, who worked as an assistant to Nixon during his Senate years, has already gathered some of the pre-presidential papers, which are being stored by the National Archives. "We'll have more than books and papers," Firestone promised. "We'll also have activities — a simulated landing on the moon, some lunar dust, things like that."

Decline of the poppy

Since 1903, the poppy has been California's official flower. For about the same time, growth has been California's most obvious characteristic. Today, 70 years later, growth and the poppy are becoming incompatible, as the steady push of development diminishes the state's remaining open space, threatening not the poppy so much as the vistas of unfenced fields of poppies waving across the valleys and along the foothills. Concern that future generations of Californians will be deprived the delightful prospect of a field of golden poppies under a deeply blue sky has spawned a Save-the-Poppies Campaign, led by the nonprofit California State Parks Foundation in San Francisco. So far, according to Robert Howard, the foundation's Executive Director, about $55,000 has been raised, but about $2 million will be needed to buy a sprawling piece of land in the Antelope Buttes off Highway 138 just west of Lancaster. "So far we have received hundreds of gifts," Howard said, "but most of them have been small." (One kindergarten student, he said, contributed six cents.) But if about half the needed funds are raised from private sources, he said, the Legislature and the federal government might contribute the balance.

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State Faces Time for Decision on Public Employee Relations

By JEROME EVANS

"Through all the 16 years that I have been with the CSEA," Walter W. Taylor, general manager of the state employees' association, told a special study commisison last summer, "the Legislature has studied state employee relations. It has studied and studied, and for state employees it has done nothing." State workers, he said, deeply resent "many years of being treated as second-rate employees" with respect to their right to bargain with their employer for salaries, fringe benefits, and working conditions just as their counterparts in private employment do. Taylor was giving voice to a militancy among state employees that seems to have ebbed since then, but he undoubtedly spoke for large numbers of employees of state, county, and city government who believed then, and continue to believe, that public employees should have essentially the same rights of collective bargaining, backed by a procedure for mediation, factfinding, and arbitration, that employees in the private sector enjoy.

If so, it now appears that they may soon get their wish. In March, the commission to which Taylor addressed his complaints, known officially as the Assembly Advisory Council on Public Employee Relations, reported its findings and recommendations in a 319-page report that called for repeal of existing state laws covering public employment and enactment of a comprehensive new law that would:

- Give public employees the right to participate in collective bargaining with public employers over wages, hours, and other terms and conditions of employment through representatives of their own choosing.
- Provide for the selection of a single collective bargaining agent to represent all the workers in each employment unit.
- Provide for mediation, factfinding, and arbitration in the event of an impasse between employees and their public employer, under the supervision of a new three-man Public Employment Relations Board.
- Permit public employees to strike if they are not satisfied with the results of arbitration, subject to injunctive relief to taxpayers if the strike is found to threaten public health or safety.

Shortly after receiving the commission's report, Assembly Speaker Bob Moretti, who had initiated the study, announced that he would immediately introduce legislation to implement these recommendations, saying that the significant point was not that public employees would be granted the right to strike but that "strikes could not occur until extensive legal procedures have been exhausted." That means, he said, "the public will have cool and impartial reasoning working for them, instead of being the victims of table-pounding and ultimatums, as has sometimes been the case." Despite the very important political ramifications of this issue, Moretti should have relatively little difficulty in getting the legislation through his own house, but substantial opposition can be expected in the Senate from Democratic as well as Republican opponents, and chances for pasage this year or next are, at best, even. Nevertheless, it seems clear that public employees in California will eventually have essentially the same rights as private employees. The trend is solidly in that direction, despite the fact that only a few years ago public employees seemed destined to remain a special class of employees with strictly limited bargaining powers.

Unlawful strikes

Unquestionably, the change has been brought about in large part by the increasing frequency of unlawful strikes by public employees at all levels of government during the past three years. Growing dissatisfaction among public employees in Alaska, Hawaii, Pennsylvania, and other states led to the first tentative experiments giving public employees at the state level in those states the right to strike. But the most encouraging development for California's public workers came in 1970, when Congress enacted (following a strike of postal employees) the Postal Reorganization Act. That law for the first time applied to the public sector the basic principles of the Taft-Hartley Act. With this first in-road at the federal level, it was apparent that the states would also have to begin giving serious consideration to restructuring their systems for dealing with state and local employees.

Existing laws

Public labor-management relations in California are currently governed by the provisions of three state laws: the George Brown Act (1961), which concerns state employees; the Meyers-Milias-Brown Act (1968), which concerns all other public employees except school employees; and the Winton Act (1965), which deals with public school district employees. Basically, the provisions of these three laws are similar. Public employees are granted the rights to organize, be represented by the organization of their choice, and "meet and confer" with their government employer. But they are specifically excluded from provisions of the Labor Code that, among other things, authorize employees to participate in collective bargaining and to strike. Existing law provides no effective action for breaking a labor-management impasse. Employers are obligated to do no more than meet with their employees and discuss any differences raised by them. There are no provisions

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for mediation, factfinding, and arbitration, as is customarily the case in private labor-management contracts, which also recognize that there is a basic equality between the interests of both sides. Hence, there is usually no way for public employees to break an impasse except by surrendering their interests or by going out on strike illegally. Although California does have a small State Conciliation Service to help with disputes, its services must be accepted by both sides before it can begin its mediation efforts. As a consequence, it has often remained on the sidelines in major disputes.

Court ruling

When the U.S. Supreme Court ruled in October 1971 that government can forbid its employees to strike, Lieutenant Governor Ed Reinecke, speaking for the Reagan administration, hailed the decision as an important protection for the public. "If the public's interests are to be protected and our citizens are to receive the guarantee of their government — whether it be federal, state, or local — for their health, safety, and welfare, then strikes by public employees cannot, under penalty of law, be permitted." Senate Majority Leader George R. Moscone warned, however, that the decision had serious implications for the state. Faced with a growing determination on the part of public employees to join strong unions and push for better wages and working conditions, California has no suitable means for dealing with public-employee disputes without strikes, he told a state conference of fire-fighters. "In spite of the coming crisis, public officials throughout the state have succeeded in preventing passage of a bill which would have provided a satisfactory method to settle public-employee wage disputes." The bill to which Moscone referred was SB 333 (Dills) of the 1972 session, which would have forbidden strikes and established compulsory and binding arbitration of wage disputes. SB 333 was not especially popular with either labor or management, but Moscone's warning of an impending crisis was accurate enough.

In the last half of 1971, the State Conciliation Service received requests for assistance from 87 public agencies — state, city, and county government, plus school and other special districts. In the first half of 1972, the caseload rose to 131, causing Ralph F. Duncan, chief of the conciliation service, to report that "the public sector is close to being on fire." There were, in fact, more than 30 work stoppages of various kinds in 1970-72, including a strike by firemen and policemen in Vallejo and by county and city workers in San Francisco in 1970, by teachers in Los Angeles in 1971, and by University of California Medical Center employees and state water project workers in 1972.

The water project strike (see *California Journal*, June-July 1972, p. 196) grew out of strike threats by CSEA leaders a year earlier intended to force Governor Reagan to include a general salary increase in his 1971-72 budget. The threat fizzled out when Reagan vetoed a five percent increase that year, saying the state didn't have the money, but by the spring of 1972 disgruntled state water project employees, many of whom had been employed previously in private industry, again threatened to strike unless the Governor agreed to meet their pay demands. Backed by a new and more aggressive set of CSEA leaders, 500 workers did eventually walk off the job for a few days in May. Although the workers won no concessions by their actions (and went back to work before testing the state's law requiring automatic dismissal of employees after five days of illegal work stoppage), they did give clear expression of the kind of militancy that was agitating other public employees at the state and local levels and moving the CSEA closer to becoming a union rather than an employees' association.

Legislative response

As a consequence of the growing restiveness of public employees under the provisions of existing state law, a total of 33 bills were introduced during the 1972 session of the Legislature to either modify or repeal those provisions. By mid-1972, in fact, public-employee relations had become an issue that demanded effective action by the Legislative leadership. Assembly Speaker Bob Moretti responded to this surge of legislative interest in perhaps the only way possible, given the fact that it came in the middle of a legislative calendar already burdened with enough complex issues to keep both houses working through the fall. On May 11th, he introduced House Resolution 51, calling for creation of a special Assembly advisory council. The council was to review existing labor-management statutes in California and other states, evaluate the trend in labor-management relations at the state and local levels, and prepare recommendations "for establishing an appropriate framework within which disputes can be settled between public jurisdictions and their employees . . ." If these words did not convey the urgency of the matter, the fact that the council was originally given only six months to propose a major rewriting of California law relating to public-employee relations certainly did.

Western Assembly conference

It so happened, however, that on the same day that Moretti made his announcement, the Western Assembly, a regional off-shoot of the nonpartisan American Assembly, met in Carmel for the beginning of a four-day discussion of the topic, "Collective Bargaining in American Government", under the sponsorship of UCLA's Institute of Industrial Relations and Columbia University. To this conference came some 80 persons, mostly from California, but representing labor, man-

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'No longer a mere possibility . . .'

"Collective bargaining in government is a growing reality for more and more communities, counties, state and federal government . . . . There is a restlessness abroad in the working world, a restlessness compounded by job dissatisfaction, by lengthening distances between the large employer and the individual employee, and by the rising aspirations of minority groups."

Final Report of the 40th American Assembly on Collective Bargaining in American Government, October 28-31, 1971.

"Collective bargaining at all levels of government — federal, state, county and municipal — is no longer a mere possibility, to be hailed or deplored; it is a fact. The most important single development in labor relations in the United States in the past decade has been the rapid growth of employee organizations in the public sector."

Report of the Western Assembly on Collective Bargaining in American Government, May 11-14, 1972.

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agement, attorneys, professional arbitrators, and local state, and federal government, among other interests. For three days, the participants, meeting in small groups, considered the whole range of questions dealing with public-employee relations. They paid particular attention to the question of the rights of employees and other parties in the development of a framework for collective bargaining. On the last day, the participants met in a plenary session to assemble and approve a final report containing 15 major recommendations on which there was general (but by no means unanimous) agreement.

Among the recommendations was an endorsement of collective bargaining and the right to strike for employees (except for members of the armed forces) at all levels of government, the use of mediation, factfinding, and arbitration, and exclusive representation for each bargaining unit. Although the Western Assembly report also endorsed the "merit principle", which is at the heart of the state and federal civil service system, it observed that a merit or civil service system is basically incompatible with a collective bargaining system and must, in time, be absorbed or replaced by the latter.

For the first time, there was an overwhelming consensus for change in California's laws and a nearly unanimous endorsement of the need for some more rational bilateral system of bargaining. Picking up this mood, the *Los Angeles Times* reported that the conference demonstrated that there had been a "dramatic change in attitudes toward government workers," and noted that the conference participants themselves generally agreed that only two or three years earlier the idea of guaranteeing government employees the right to unionize and strike if necessary would not have been approved by a similar conference.

Council appointed

When Moretti's resolution passed the Assembly in June, he proceeded to name as his appointees to the new five-member Assembly Advisory Council on Public Employee Relations five experts in the field who had participated in writing the Western Assembly recommendations a month earlier. Benjamin Aaron, Director of the Institute of Industrial Relations and professor of law at the University of California, Los Angeles was selected as chairman. Also appointed to the council were Don Vial, chairman of the Center for Research and Education at the Institute of Industrial Relations at UC Berkeley; Donald Wollett, professor of law at UC Davis and author of numerous publications dealing with labor relations in the public sector; Howard Block, a southern California attorney, arbitrator, and labor relations consultant in the field of public employment; and Morris Meyers of San Francisco, a professional arbitrator and mediator experienced in both private and public labor relations. (Aaron and Block had earlier collaborated as members of a committee that drafted the Los Angeles County Employee Relations Ordinance, a detailed and comprehensive measure affecting over 70,000 employees of Los Angeles County.)

To begin its work, the council, as directed by the California Assembly, held a series of public meetings — in Sacramento July 17th, in San Francisco July 28th, and in Los Angeles August 10th and 11th — to hear the views of labor and management as to what changes, if any, should be made in the state's public-employee relations law, particularly in regard to the central issue of collective bargaining. In addition, all interested parties were invited to submit written testimony by August 30th. To give focus to the testimony, and following a format similar to that used for the Western Assembly conference, the council asked those who testified to respond to 15 key questions, including:

Should the Legislature adopt a comprehensive statute embracing collective bargaining for the public sector?

Should public employees have the right to strike?

Should negotiations be allowed to go beyond the traditional matters of wages, hours, and other working conditions?

Should there be exclusive representation of public employees by a single organization?

Should a neutral state board be created to oversee the new law?

Testimony was received from more than 100 individuals and organizations representing labor, public management, private management, and other related interests, including the major statewide labor and management organizations. Public and private management representatives testified that collective bargaining as followed in private industry would not work in the public sector, but most of the other witnesses argued that its extension to public employees was long overdue. Labor representatives argued that current law is heavily weighted in favor of management and that public employees must be given equal standing through provisions for arbitration, mediation, impartial factfinding, and, most important of all, the right to strike. Collective bargaining is not complete as a process for settling disputes fairly, they argued, unless the employees have the right to strike. Otherwise, as at present, a government agency may break off discussions with employees at any time, knowing that they have no legal way to retaliate. Management representatives countered with the argument that the public would be denied such essential services as police, fire, and public health protection if all public employees were allowed to strike. This led to considerable testimony dealing with the question of what classes of employment might reasonably be denied the right if it were given to others and what protections they might be granted in exchange.

Report issued

It came as no great surprise, however, that the plan the council finally recommended to the Assembly (see box) closely parallels the recommendations that had come out of the Western Assembly conference. Although the members of the commission stated repeatedly that they approached their task without any preconceived conclusions and had made every effort to obtain testimony from a broad range of interested organizations and individuals, the fact was that they had all participated in drafting the Western Assembly report and there was no reason to suppose that they had changed their views in the interim.

Thus, the proposed new law that the commision recommended, which has been introduced as AB 1243 by Speaker Moretti, provides for the extension of collective bargaining rights to all public employees, establishes a procedure for resolving disputes through arbitration and mediation, and gives employees the right

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SUMMARY OF THE RECOMMENDATIONS OF THE ASSEMBLY ADVISORY COUNCIL ON PUBLIC EMPLOYEE RELATIONS

1. *Comprehensive new law.* The Legislature should enact a comprehensive, pre-emptive state law applicable to all levels of government, and applicable also to all public employees except management, supervisory, confidential, transit district, and elected employees. Local agencies may continue to enact their own employer-employee relations laws provided these are in substantial compliance with the state statute.
2. *State board.* The new state law should be administered by a a state board consisting of three members appointed by the Governor, with the advice and consent of the Senate, from a list of names submitted by a panel composed of the Chief Justice of California, the director of the California State Conciliation Service, and the president of the American Arbitration Association. The members of the board are to serve full-time and would be given broad responsibilities and authority to administer the statute. The board would be involved in matters such as establishing lists of qualified neutrals, determining or approving appropriate bargaining units, supervising and certifying the results of representation elections, investigating and acting on unfair labor practices, and bringing action in court to enforce its orders, decisions, and rulings.
3. *Right to organize.* Public employees should have the right to form, join, or assist employee organizations to participate in collective bargaining with public employers, including any matters agreed to by the parties as a subject of bargaining, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. Employees should also have the right to refrain from engaging in such activities, subject to the requirements of permissible organizational security agreements.
4. *Representation.* There should be exclusive representation of all employees in an appropriate unit for the employee organization selected as representative by a majority of the employees in the unit. Individual employees should retain the right to have grievances adjusted and resolved.
5. *Bargaining units.* Bargaining unit determination by the state board should be restricted to the "largest reasonable unit" as the only one appropriate for purposes of collective bargaining. The board should also consider the internal and occupational community of interest of employees; the probable effect of the unit on sound collective bargaining relationships; the effect of the unit on the efficient operation of the public agency; and the compatibility of the unit with the responsibility of the agency and its employees to serve the public.
6. *Unfair practices.* The state law should require the board to compile a list of employer and employee organization practices deemed to be unlawful.
7. *Agency shop.* The statute should provide for the negotiation of organizational security, specifically arrangements commonly referred to as the "agency shop" or "maintenance of membership."
8. *Arbitration.* The parties should have the authority to negotiate procedures for binding arbitration of grievances over the interpretation of a collective agreement of certain mutually agreed to agency policies or practices. Neither lockouts nor strikes should be permissible over a grievance dispute submissible to binding arbitration.
9. *Impasse settlement procedures.* The state law should provide for a detailed procedure for the settlement of an impasse when the parties cannot resolve controversies over the provisions to be included in an agreement, either by reaching voluntary settlement or by agreeing on procedures for final and binding settlement. The procedure should provide for such steps as mediation and factfinding, involving both private and public factfinder recommendations, and time limits. In the absence of agreement at this point, there should be provisions for a strike by employees and a lockout by the employer. Such decisions, by either the employer or the employee organization, may be appealed by any party in the interest — including individual citizens — to the courts. The courts may issue injunctions, however, only if the strike or lockout is proved to imminently threaten public health or safety. If the court issues injunctive relief, it must also direct the parties to accept the recommendations of the factfinders for settling their dispute. Otherwise, the lockout or strike may commence or continue.

to strike if a dispute cannot be settled within a specified period by such means. The new law is to cover all public employees except management, confidential, and supervisory employees, the state militia, elected officials, and certain transit workers. It is to preempt all existing municipal, county, school district, and other public agency ordinances and agreements, except those that meet the provisions of the new state law and are administered by a neutral board or commission. (The procedures now followed by the City and County of Los Angeles and the County of San Diego are expected to be found to comply.) Finally, a three-member Public Employment Relations Board, appointed by the Governor, is to be set up to administer the new law statewide.

Employee organizations throughout the state, including the CSEA, lost little time in expressing their support for the commission's recommendations. CSEA said it was "extremely happy" with the report generally and, in particular, with the endorsement of the right to strike. The organization will also support the Moretti bill, which Marty Morgenstern, the CSEA's collective bargaining specialist, has described as "a comprehensive and progressive document combining tried and true collective bargaining procedures with new and innovative ideas." The single important drawback to the bill, according to Morgenstern, is that supervisory employees can only be included under its provisions if their employer agrees.

Outlook

There are now six active bills before the Legislature

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PROPOSED PUBLIC EMPLOYEE INTEREST DISPUTE RESOLUTION

AB 1243 (Moretti)

Impasse declared to exist by either the employer or employee representative.

Public Employment Relations Board (Board) is asked either to supply a list from which a mediator may be chosen or to designate a mediator with both parties equally bearing the cost; or the California Conslliation Service designates a mediator free of charge.

15 days

If no settlement, either party may request their differences be submitted to a factfinding panel.

30 days

If the dispute is not settled within 30 days, the fact-finding panel shall make its advisory recommendations privately and in writing to the parties.

If the parties do not immediately accept the recommendations, negotiations resume for 10 days. If no settlement is reached after this period; the Board, the panel, or either party may make the recommendations public.

10 days

If the impasse remains unresolved:

BEFORE STRIKING: The Employee Organization must call a meeting where a secret ballot vote is taken on whether or not the fact-finders' recommendations are accepted.

BEFORE LOCKING OUT: The Employer's legislative body must call a meeting where a vote is taken on whether or not the fact-finders' recommendations are accepted.

1) If both votes are affirmative, the impasse is resolved.
2) If one or both votes are negative, the parties may strike or lock-out after written notification is given to the other party, immediately announced to the public, and five calendar days have passed.

Any employee organization, public employer, citizen affected by service interruption, or taxpayer may at any time after the public announcement of the strike or lock-out ask the court for an injunction.

The injunction may be issued only if the court finds the strike or lock-out imminently threatens public health or safety and, also, that there is no alternative method for providing alternative services. Concomitant with the injunction, the court directs both parties to accept the fact-finders' recommendations.

that would substantially restructure the framework for public employee relations in California. In addition to AB 1243 (which will receive its first hearing May 29th before the Assembly Committee on Employment and Public Employees) these are:

- AB 33 (Burton), which proposes to establish a separate system for police and fire department employees under existing state law. It specifically denies such employees the right to strike or to recognize other picket lines, but does provide for mediation and factfinding in the event of an impasse in a dispute.
- AB 485 (McCarthy), which is supported by the AFL-CIO and is a comprehensive collective bargaining measure in many ways similar to Moretti's bill, including its provision authorizing public employees to strike when other steps fail to resolve a deadlock.
- SB 32 (Dills), which proposes creation of a five-member board to administer public-employee relations, defines the scope of negotiable issues and management rights, authorizes mediation and factfinding, and provides for exclusive representation as a negotiable issue. It does not authorize strikes, however, nor does it require binding arbitration. (SB 32, which passed the Senate Public Employment and Retirement Committee April 24th, is termed "anti-labor" by the AFL-CIO because of its limitations on the scope of collective bargaining for public employees and because it would permit units of building and construction tradeworkers to be eliminated.)
- SB 522 (Berryhill), which is backed by the League of California Cities, and is similar in many respects to SB 32, but several technical features make it more appealing to city government officials.
- SB 400 (Moscone), which is backed by the major teacher organizations, and would establish collective bargaining for public school teachers, with provision for binding arbitration of disputes, and creation of a special state commission to oversee representation and bargaining elections.

Despite this evidence of continuing legislative interest, Governor Reagan has made it clear that he is opposed to collective bargaining for public employees in nearly any form and will lead Republican opposition to any legislation that will amend existing laws to significantly expand employee bargaining rights. "If someone chooses to work for the people, for the public instead of a profit-making enterprise, then he has to give up some things," Reagan told the Academic Senate of the California State University and Colleges last month. He is, he said, totally opposed to collective bargaining, arbitration, and the right to strike for any public employee at any level. "Collective bargaining," said Reagan, "eventually involves the right to strike . . . , and you cannot strike against the people."

Thus, it is evident that, while there has been a substantial change in attitude regarding collective bargaining for public employees among labor relations experts and, perhaps, the public generally, substantial opposition remains to any major changes in existing state laws. There is, however, broad support for some form of new legislation, not only among labor organizations but also among groups representing management in the public sector. The only question at the moment seems to be whether the new legislation will incorporate the sweeping changes recommended by the Assembly's advisory commission or the much more moderate proposals backed by public employer groups.

Correction

Capitol radio correspondent Bernice Slater, whose solicitation of campaign funds for a run at state office brought about a 40-18 vote by the Capitol Correspondents Association that such an act should constitute a conflict of interest, denies having said the quote attributed to her in the March *California Journal* feature "It Was Said . . . ". Slater also points out that she and her husband are major stockholders and corporate officers of the stations she represents as a reporter, not the owners. The Joint Legislative Committee on Rules voted unanimously to reject the association's request to add a conflict-of-interest provision to accreditation rules.

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The Courts and the Legislature Follow Separate Courses Toward Reapportionment

The founding fathers intended reapportionment to be done every 10 years. Little did they know that that time span might someday be only long enough for one reapportionment to be finished before the next had to start. As the current decennial reapportionment drones through its third year, a number of new developments present again the prospect of accomplishing the constitutionally required apportionment of state Senate, Assembly, and congressional districts on the basis of equality of population. However, any solution achieved this year may well only serve the state for the 1974 elections after which the game could be played all over again. Recent developments include:

- Appointment by the state Supreme Court of three retired judges as special masters to take public testimony and present to the court by August 31st their recommendations for new districts.
- Assembly reapportionment, which has been the chief obstacle to passage of all three reapportionment measures may be reaching bipartisan resolution.
- Reapportionment of the Senate, a plan for which had been agreed to on a bipartisan basis on several occasions, may now be more difficult to achieve, since two plans, both drawing bipartisan support, are competing for support.
- The Governor, recently expressed a somewhat softer position regarding reapportionment than in the past (he vetoed state Senate, Assembly and Congressional reapportionment plans in 1971).

The court's role

On May 1st, the state Supreme Court, which assumed jurisdiction over reapportionment when the Legislature failed to reapportion itself last year, announced the appointment of three retired judges as special masters to prepare reapportionment plans. The presiding master is Martin J. Coughlin, who retired as Justice of the State Court of Appeal in Los Angeles in 1971. The other two masters are Harold F. Collins, who retired in 1972 as Judge of the Los Angeles Superior Court, and Alvin E. Weinberger, who retired as Judge of the San Francisco Superior Court in January of this year. All three were appointed to their latest judicial positions by Governor Edmund G. Brown, (although Coughlin and Weinberger were originally appointed to the bench by Governor Earl Warren). Coughlin is a Republican, and Collins and Weinberger are Democrats.

The appointment of the masters follows the March 23rd announcement by the court of the procedures it would follow in drawing new district boundaries. The masters are to evaluate criteria to be used in reapportionment, study specific plans or recommendations submitted to them, hold public hearings, and submit their recommendations to the court by August 31st. The recommendations, presumably, will be specific reapportionment plans for the Senate, Assembly, and Congress. The masters will be assisted by special counsel and staff experts in reapportionment and computer technology. The court also authorized use of such data and computer processing assistance as "may be made available to them from legislative staff and the state personnel."

Although the court has assumed jurisdiction in this matter, it has not done so eagerly. The order setting out the procedures for reapportionment made it clear that the court would consider even now dismissing its proceedings if valid reapportionment plans are enacted before the court's action is completed. There is every indication that, if the Legislature passes reapportionment plans that are signed by the Governor and meet current legal standards of fair representation, the court would allow those plans to go into effect. Thus, the Legislature still has a chance to do the job.

Assembly reapportionment

The Assembly appears to be as close to bipartisan agreement on reapportionment as it was when negotiations collapsed after the election of Republican Bill Brophy in a special election in the normally Democratic 48th Assembly District in November of 1971. After that, Democrats passed their own plan, which was vetoed by the Governor, and the matter went to the courts.

Now, Assembly Democrats have a 49-27 majority in the Assembly (there are two Republican and two Democratic vacancies at the moment), but they still need five or more Republican votes to override an anticipated gubernatorial veto of any incumbent-oriented plan. The Republican Caucus has voted that no Republican may vote for any reapportionment plan unless two-thirds of the caucus agrees. That means 18 of the 27 Republicans must approve a plan before any may vote for it.

Tentative agreement between the Democratic and Republican Assembly leaders has been reached on amendments to AB 8 (Meade), which would guarantee the safety of the present 29 Republican seats and add four more from seats that are already vacant or will be by 1974. In addition, according to Richard Hayden, vice-chairman of the Elections and Reapportionment Committee and coordinator of Republican strategy on reapportionment, six or seven Democratic-held seats that, theoretically, should be Republican will remain

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marginal enough so that "in six to eight years Republicans could be in a majority situation again."

At this point, two-thirds of the Republican caucus has not yet agreed to the solution. In the first place, a couple of internal problems remain. Republican Assemblymen Ernest Mobley and Ken Maddy have not yet resolved their mutual boundary in Fresno County, and W. Don MacGillivray is reliably reported to be insisting again that the UC Santa Barbara community of Isla Vista be removed from his district, a change that is not acceptable to the Democrats and that the Republican leaders concede is not possible.

Ultimately, the fate of an Assembly agreement depends on whether legislative Republicans feel so strongly that reapportionment should be done by the Legislature rather than by the court that they will be prepared to oppose the Republican Governor on the issue. It will take the approval of 18 Republicans to do that, though in the final analysis only about five or six Republicans will have to be in the awkward position of actually voting to override the Governor's veto, should it come to that. At the moment, the Assembly appears likely to pass a bill on a bipartisan basis in the not distant future.

The Senate

The Governor himself seems to recognize the possibility that Republicans may override his veto in the Assembly. This would be the first override of a Reagan veto, and the first in several decades. Reagan has, therefore, begun work in the Senate to head off any override there. (Both houses must vote by two-thirds majority to override a veto.) In a step that violates a longstanding policy not to express an opinion on a bill until it reaches his desk, Reagan sent a letter to Republican Senator John Harmer in March indicating his support for the Senate reapportionment plan contained in SB 195 (Zenovich-Harmer). It has been learned from two sources that the Governor's willingness to support SB 195 is contingent upon an agreement that the Senators will oppose any attempt to override any veto of an Assembly plan.

Co-authored by Democrat George Zenovich and Republican Caucus Chairman Harmer, SB 195 is in the Elections and Reapportionment Committee, which is chaired by Senator Mervyn Dymally. However, it does not have the votes to get to the floor, where chances for passage are deemed good. An attempt to pack the committee to secure passage of SB 195 failed. Dymally is the author of a competing plan, SB 62, which is on the floor but doesn't have sufficient votes for passage, let alone for an eventual override.

The key differences between SB 195 and SB 62 are not great. Both plans maintain most county boundaries intact at the expense of exact equality of population. This is in accordance with a recent U.S. Supreme Court decision in which a Virginia reapportionment was approved despite a variation of at least 16 percent in district population. The plan was allowed to stand because the deviations resulted from not dividing any cities or counties. Whether such deviations form equality of population will be permitted in cases where many but not all cities and counties are kept intact is not clear.

Both plans appear to preserve the 20-20 partisan make-up of the Senate, with all incumbents probably safe except Senator Alan Short, who had announced his intention to retire next year. Short's district in the Sacramento area would be divided among neighboring districts to allow the Los Angeles area to gain a district which authors of both measures say would be Chicano-dominated. In the Harmer-Zenovich bill this district runs from East Los Angeles to downtown San Bernardino. In Dymally's version, the district is more compact.

The Senate all along has been able to reach bipartisan accord on reapportionment more easily than has the Assembly, and the differences between the competing two bills do not appear so great that they cannot be resolved. The major stumbling block may turn out to be the willingness of those who can reach bipartisan agreement on Senate districts to support an Assembly override of a veto of their plan. The Assembly will never pass Senate district reapportionment unless the Senate agrees to pass Assembly district reapportionment. Thus, the redistricting of both houses will likely end up in one bill that the Governor must accept or veto as a whole and on which both houses must agree to vote to override any veto.

Congressional reapportionment

New congressional districts were in effect for the 1972 election, despite the fact that the Governor vetoed them as well as the Senate and Assembly districts. The court ordered the congressional redistricting, the "only readily available" plan, into effect for the 1972 election, but ordered a new plan for future elections.

Congressional redistricting remains on a back burner, however, until Senate and Assembly agreement is reached, since its chances of passage by itself are nil. It would be relatively easy to revive and revise the existing plan, though, once it appears worth doing.

Questions for the court

There is at least a possibility, in short, that Senate, Assembly, and congressional redistricting will become law either with the Governor's acquiesence or with an override of his veto. Such plans could be challenged in the courts, of course, and overruled if they did not meet the court's standards for equitable reapportionment.

If the plans are defective, or if plans are not passed at all, the court and its special masters are then faced with many important, complicated, and sensitive questions, among them:

- Should the court consider partisan data to evaluate the fairness of plans on the basis of such factors as party competitiveness and representation in the Legislature of both parties in accordance with their registration or vote?
- Should present districts and preservation of incumbents be considered?
- Should an effort be made to preserve and increase present representation for minority groups?
- What communities of interest, if any, should be considered? (Do city and county boundaries represent communities of interest? What about communities of interest on the basis of economic or social factors?)

These questions must be answered in dealing with any reapportionment, and the court through its masters will have to enter this political thicket whether it wants to or not, if the Legislature fails to act.

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A View from Within:

'Years of Shout' Seem Over in Chicano Politics

By JUAN MANUEL HERERRA

The following article describes contemporary Chicano political movements in California in terms that reflect the sympathy of the author, who describes himself as a fascinated observer of all movements for social justice, including Chicano politics. Juan Manuel Herera, a former legislative aide to Democratic Congressman Ronald V. Dellums, says he is working on a study of the dynamics of social change. The editors invite readers' comments and discussion on his analysis of Mexican-American political development in California.

One year ago in late April, a National Chicano Political Caucus convened at the Hyatt House in San Jose. Or, more precisely, it attempted to. Nothing is more illustrative of the currents and clashes in the Chicano movement today than the event of this meeting called by the Mexican-American Political Association (MAPA) in hopes of fostering a united front in view of the imminent presidential election. McGovern, at that point, was still in the back seat, winding his way through the thicket of primaries that were to prove his launch pad. Muskie, the ill-fated front-runner, was by now only moving backward, while the other candidates were running to catch up. For us, there was no one special; rather whoever the Democratic presidential nominee was going to be, our intention was to be in a position to bargain.

Delegates arrived from the southwestern states and some from farther east, expecting the caucus to follow a particular format and an announced agenda. Lieutenant Governor Robert A. Mondragon of New Mexico and Reis Lopez Tijerina — *El Tigre del Norte* — were scheduled to speak, and workshops dealing with questions of importance to the Chicano were also planned. From all this, it was hoped, would come agreement on how to deal with the possibilities of a presidential year.

But it was not to be. From the moment the caucus convened, there were pickets at all the entrances and in the lobby of the hotel. These were not outsiders, but members of our own community — Chicanos. They distributed leaflets entitled *Political Fraud,* which contained these charges:

1. La Raza Unida Party is the largest and only Chicano political body in the country, and no one from the local chapter was invited to participate in the organizing and the planning of this caucus.
2. This caucus, according to MAPA, is for the purpose of constructing a national political platform for 1972. In fact it is being used as a front for the Democratic Party.
3. Chicanos have been assaulted and insulted by Democrats, such as Yorty and Chargin. To be a part of the Democratic Party is to condone racists like these men.

It was apparent that the pickets' objective was to disrupt the caucus, and, by the morning of the second day, they had regrouped and moved inside the hall. The effect was immediate: out went the agenda and the workshops; here, as in the movement embracing Chicano awareness *La Raza Unida* had come to take over.

Time had come

Now, to understand Chicano political development, it is important to grasp *Raza Unida* as both a cultural philosophy and, more pertinently at this point, as a political party whose time had come. With incredible speed it moved from community to community, capturing the hearts and imaginations of Chicanos. The very idea was heady to contemplate: a political party that belonged to the people, our people, and, one might add, one that would provide a vehicle for realizing the idea of a brown nation.

From the moment of takeover by Raza Unida, the caucus proceedings were wild, tumultuous, colorful, and exciting. "Political power for Chicanos" was a constant theme, and it was discussed endlessly — but no one was listening or willing to be convinced. For many there, it was a wearying and frustrating experience, a reenactment of so much of the preceding few years of the movement. Then, amid the clamor, a call came from the audience for the King Tiger, Reis Lopez Tijerina, to speak to the assemblage.

Reis Tijerina has been an inspiration to many within the Chicano movement since the day in 1967 when he burst onto the national scene with a daring courthouse raid in Tierra Amarilla, New Mexico, and thus focused attention on the Treaty of Hidalgo and the land-grant claims of Spanish-speaking people. Tijerina, however, is an intense and searching man, and 1967 was already a long time ago — as we all, stunned and stirred, discovered that afternoon. Responding to the request by acclamation, Tijerina mounted the podium and delivered a fiery, scathing indictment of what he perceived to be the childishness and superficiality of the Chicano movement. No one was spared, and the man spoke the truth.

The pattern emerging that day remains an accurate commentary on the movement today. *It is as if we hadn't heard.* No sooner had Tijerina concluded than the conference was back in the hands of the occupying forces. Speeches were made, suggestions and resolutions tossed about, and then came the grand finale. The

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assemblage, by now swelled with the spirit (and numbers) of La Raza Unida, voted to adjourn the conference at the Hyatt House and to reconvene in the *barrio*, at Lee Mathson Elementary School on the east side of San Jose. So much for a National Chicano Political Caucus.

The rise of separatism

La Raza Unida in its rapid growth in this state, has followed a westward course leapfrogging from a state that is something of a mover-and-shaker in *El Movimiento*'s life — the State of Texas. (Leadership has come from all southwestern states; nevertheless, Texas and California stand out as two major pillars if only because of their importance nationally, their high Chicano populations, and their unflagging contribution to movement thought and action.)

La Raza Unida's development in California had been building toward an occasion to test its political clout, and encountered a prime opportunity in October 1971, when a special election was called to fill the 48th Assembly District seat in Los Angeles, which had been vacated by Assemblyman David Roberti's election to the state Senate. By all counts, the Democratic nominee, Richard Alatorre, should have won that seat outright. But a field of 11 forced Alatorre and three other candidates — among them, La Raza Unida's candidate, Raul Ruiz — into a run-off. The result that November was a stunning upset victory for Republican Bill Brophy in a district registered heavily Democratic.

La Raza Unida was exultant. What they had been saying had been proven: Chicanos, brown people, La Raza Unida Party, had the power to upset political equations and recast the balance of power. They had worked tirelessly on a meager budget, relying almost entirely on a walking campaign carried door to door. And now there was no denying it; precinct returns showed La Raza's candidate, Raul Ruiz, doubling his vote in the primary in several districts, and thus cutting into the traditional Democratic vote. It was a victory — for somebody. Richard Alatorre had lost, and a non-Chicano Republican had won. Nevertheless, newspapers in Los Angeles and other California cities ran articles concluding, as one headline had it, that the "Chicano Ballot Had Proved Stronger" — strong enough to upset the election.

Federal influence

To understand this political behavior, it is necessary to backtrack a bit. In the mid-sixties, a scattering of politicians, columnists, and reporters began to observe that a "sleeping giant" was stirring and becoming involved in what then was broadly termed the civil rights movement. At best, references to a "sleeping giant" represented a grossly uneducated view. Brown people had been participating actively in movements for social justice since the beginning of California's history. More recently, from the late 1940's to the early 1960's, this involvement had been broadening from its base in the struggle for farmworkers' rights. The events of the 1960's, however, were a cataclysmic experience that touched the nation deeply in many ways, and no less affected was the Chicano community. In that decade, three factors accentuated our political consciousness: more of us went on to higher education; there was an expansion of the black civil rights struggle (with its concommitant ethnic pride); and President Johnson realized a dream for massive social programs that came to serve, among other things, as a catalyst to develop new political leadership. At some point in those historical developments, Chicanos began pulling away and focusing on giving substance and visibility to their own movement. The days of locking hands and singing softly the civil rights refrain ". . . black and white together" were coming to an end.

In the community, the federal programs drew ethnic lines even more sharply. The structure of the programs gave added cohesion and presence to the struggle and, at that time, brought in new energies of people who had not previously been active but who now were being encouraged to concern themselves with the planning and methodology of the programs or being involved as staff or clients of the various agencies. Simultaneously, the promise of jobs, the competition for funds, and the less tangible — but real — rewards of recognition, credit, and preeminence began to divide the early 1960's coalition of poor people into self-seeking ethnic camps. The question became then not how to achieve justice, but how — in this case — to obtain power for Chicanos, more resources and more visibility and more prestige for Chicanos — and, inevitably, dominance for Chicanos.

The next step: a party

It was clear that formation of a political party for Chicanos was close at hand. In a spontaneous growth of cultural awareness and empathy for brown people, we became concerned only for what was Chicano — for little else. Other factors came into play, too, among them the leadership that Chicano youth began to exert, the national attention being given to "black power", and the separatist tendencies of groups like the Black Muslims and the Black Panther Party. What evolved within our community was a repudiation of everything white, which expanded to include everything black, and, in short, anything not brown. These developments, which have defined Chicano political development in the last decade, generated a mass of activity that may be interpreted in terms of the following five categories: 1. We have witnessed the rise of the Campus; 2. the strengthening of a Community (in the movement sense) — marked by proliferating leadership and local organizations; 3. the sprouting of distinct leadership — the "manpower chiefs" — within the federal and privately funded agencies; 4. the growth and clout of Cesar Chavez and the Farm Workers Union; 5. a number of other factors, such as elected officials who play a variety of roles in the movement.

It was from a dynamic relationship between Campus and Community that came much of the impetus and inspiration for *El Movimiento*'s development in the last decade. From this alliance came a stirring manifesto, *El Plan de Aztlan*, which reaffirmed the concept of Chicano nationhood and raised the cry of a bronze destiny in America. From it came the theory and strategy for a brown separatist party — enunciated principally by a young man then 22 years old, Jose Angel Guttierrez, of Crystal City, Texas. From this relationship also came, not surprisingly, a strong disavowal of the Establishment, if you will, and, necessarily, of its efforts in our midst. Thus, we have witnessed a phenomenon of unacceptance by many Chicano activists of the public and privately funded agencies established to deal with such basic concerns as housing, education, and health. To some, the use of such funds in behalf of Chicanos could be condoned only if viewed as a "rip-off" of "the

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system". In all cases, the agencies providing this aid are viewed as hostile forces.

The intensity and force of *El Movimiento*'s growth put many within the movement on the defensive. Groups oriented to operating with an acquired sense of political sophistication have, for the most part, dealt from just such a defensive position in their efforts to harness the energies and passions of *El Movimiento*. These people included elected officials and political aides but even more so, in terms of local base and continuity, have been the leadership revolving around the federal programs and the two major agencies funded by the Ford Foundation — MALDEF (Mexican-American Legal Defense and Education Fund) and SWCLR (South West Council of La Raza). More often than not, they have faced the accusation of being brokers, not builders, and apologists, not leaders. (And, it must be said, publicly and privately funded programs have indeed yielded a high incidence of undisguised opportunism —a scramble for jobs, patronage, and creation of a self-serving political base in the community.)

A negative contribution

The growth of a feeling of ethnic pride that combined nationalism and anger brought about the diminution within the community of such once-militant — but now moderate — groups as the G.I. Forum, LULAC, (League of United Latin American Citizens) MAPA, (The Mexican-American Political Association), and CSO (Community Service Organization). In the political field, MAPA continues to suffer the more precipitous decline, if only because it is entirely political and has been unable to coalesce the troops. Nevertheless, it has been and remains an established line of communication and interaction with the political world, and many politicians continue to seek it out for an audience and an endorsement.

In seeking to understand the ways of Chicano politics, the overriding fact has come to be that no one group speaks for the movement. If there is some reference point nationally, it has come to be Cesar Chavez and the Farm Workers Union. Over the last decade, the action — imaginative, resourceful, and effective — has been there. It also has produced conflicting feelings of pride and consternation. Chicanos, whatever else is said of them, have a penchant for leadership and launching new organizations when they get turned on to the Cause. Consequently, California's urban areas have many centers of movement activism. Outsiders invariably will pass over these organizations — many grouped into confederations — when courting the Chicano vote. It's everyone to the sidelines as they seek out *Cesar Chavez* and the support of the Spanish-speaking community. The fact, however, is that Chavez is the strongest figure the Chicanos have outside the community, as well as in it. And so it is that, after the California primary last summer, Dolores Huerta, Vice-President of the Farm Workers Union and a highly effective movement figure, was accepted without challenge from either Chicanos or the delegation generally as co-chairperson of the Miami-bound Democratic slate. (A revealing and illustrative sidelight here: the convention afforded a well-used opportunity to push the national boycott of lettuce spearheaded by the union in its efforts to beat Teamster-grower collusion in the fields. Well and good, but a lot of other Chicanos were upset that the nation saw nothing more of La Raza — Puerto Ricans, Latinos, and the average urban Chicano.)

Hurting one's friends

The past decade has brought a dominance of separatist thinking, and one of the consequences is that we are always confronting our political friends, and sometimes one of our own. Richard Alatorre was able to make it, in the subsequent election held in Los Angeles last year, and is now serving as an Assemblyman. Others, to take a national perspective, have not been so fortunate, as in the case of Joe "Senator" Bernal of San Antonio, Texas.

Bernal is, undoubtedly, one of our best men in Texas state politics. "The Senator" we called him, and in eight years in the Texas Legislature he held fast on all the issues of importance to the Chicano. Yet, *El Movimiento*, true to the ideological wisdom with which we have yoked ourselves, fielded a candidate against him in a district with a substantial Chicano population.

The premise was that to be a Democrat or a Republican — or anything other than a member of La Raza Unida — was to be an enemy of the people and part of the corrupt *gringo* system. Necessarily, if we are to build our own, then that system and its agents must go — so we did it, and lost the Texas Senate seat by fewer than 3,000 votes. It was a demonstration of both the possibilities and limitations inherent in such simplistic political thinking, because rarely in such discussions do we seriously consider electoral victories, but speak simply of "upsetting the equation". Such thinking holds that if we build a third party, and do not let the Democrats "take us for granted" any longer, if we can cause the "party of the people" to lose elections to to Republicans, then the Democrats will have to turn around and bargain with us. The catch is that we insist on building our own third party. That, we will not abandon; otherwise, we could have used a much different model for gaining political clout within the existing parties.

Out of the mainstream

This premise of separatism and the brown nation is thus tightly woven into our political strategies and thinking. A "political party" is an integral part of the institutional make-up of a brown nation, and the line of movement thought that has managed to see beyond the goal of nation and third party still has clung to separatism and nationalism for its activity in the mainstream of politics — as the McGovern for President Campaign ruefully experienced last fall. In that campaign, there were many instances when we couldn't be placated. In the heat of the campaign, we managed to divert a lot of time from the hard stuff of politics to internal squabbles over having separately staffed and campaign-finance operations. When our liberal friends tired of this attitude, our response wasn't too creative: we called them racist. And, indeed, this has been the heritage of 10 years of separatist thinking. In that most liberal of campaigns, we exhausted, perhaps once and for all, our allies in the political processes who came to feel that our contribution, if anything, tended to be negative: we wouldn't embarrass them by publicly bolting or denouncing them, for example, "unless . . . ".

The sad part about it all was that we hadn't learned

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how to contribute. When it came right down to it, Chicanos in locality after locality didn't know how or where to raise big money, how to set up efficient precinct operations and voter-registration drives, how to handle the intricacies of public relations and mass-media coverage — all the skills determining political presence today. That is the image and substance of the Chicano movement in California today, and it will continue to be so until Chicanos decide to move outward and become more professional. The fact of political life is that we are not needed until we do so. Worse, we're not even there. It does not matter that you're the state's largest minority — a very visible 20 percent of the population — if you do not register and vote. It matters little that you're brown and proud of it, if your civic community knows nothing of you except through "confrontation". Boards, commissions, councils, committees, and parties — all these tools and vehicles shape our lives while we politic among ourselves and prepare for the next opportunity to come down on "the system".

The price of separatism

The consequences of our separatist ways have been many and serious. One is that it has robbed us of a sense of timing and a feel for the psychology of the political dramas we act out. Chicanos, with our picketing, "demonstrating", agitating, and pressuring, have been left puzzled, angered, and frustrated over the lack of response from "The Man" and "The Media". We just rarely do anything new.

Also, we still find it legitimate to confront suddenly a particular field of concern and condemn the racism and lack of response to the Chicano, even though the energies of the movement have not been consistently or professionally turned to the life of the establishment in question. As a consequence, again, Chicanos are on the outside pressuring and, for ideological reasons, have been holding back from moving inside and contributing. The expressed desire has been not to be *in* the process — white, corrupt, and exploitative that it is. At best, with many of our traveling companions in the other movements, Chicanos have moved toward a measure of accommodations with the system from a previous conviction of Down With the System.

The movement today

Where does this leave the Chicano in politics today? The movement was built on certain articles of faith: the Barrio and Pueblos; Aztlan and brown nation; white System and separatism; oppression and power. And it is these concepts that must be challenged if the idealism, commitment, and energies of the movement are to bear fruit. Otherwise, the prospect is of a self-directed drive toward frustration and political oblivion. And it could, of course, be worse: there could be blood. If it should come to that, however, the Chicano people will not suffer the same fate, for we will have left them behind long before, even as we are now leaving them behind.

A changing base

Everywhere, it can be sensed: there is a changing base in *El Movimiento*. Some thought they detected a swing of the pendulum during the California primary when thousands of non-ideological, non-zealot voters in the Chicano community found themselves disenfranchised by their membership in what was only an unofficial party, *La Raza Unida*. Partisan disenfranchisement during a primary was inevitable; for many, however, it was an unexpected and deeply upsetting situation. The limitations of manpower and the pressures of time had conspired to bring about a voter-registration drive for La Raza Unida Party that was all-too-often a fast hustle. ("This is for Chicanos to have their own political party", went the line. "We've never gotten a damn thing from the Democratic Party or the Republican Party. Do you want to help our people? *Chicano Power!* . . . Sign here.")

Actually, close involvement with *El Partido* had touched off a slow but steady process of disavowal among a number of Chicanos. The charge invariably is that we don't know enough about politics to have our own political party, that it's futile and frustrating, and that, in any case, anything of consequence for poor people always seems to happen elsewhere, in the multi-ethnic arena that is society. The McGovern campaign served to focus the nagging suspicion that Chicanos were pursuing a faulty interpretation of the real world, and were operating as yet outside of, not in, the political process.

A growing conviction has surfaced in the movement that separatist thinking has to go. Participating in the system provides the training and experience needed to produce the clout we seek, but the ideological twists and turns in the movement have kept us from fully profiting by doing so.

The case of Roybal

Where we are going can be seen in the example of Edward Roybal, a United States Congressman, who over the last 10 years has risen steadily in the congressional hierarchy. He is typical of the practitioner of hard, realistic politics, always building and investing in the political process. And it is this type of leader, particularly, that has been forced off-stage in the continuing dramas of *El Movimiento*. Indicative of change is the fact that a few months ago in Los Angeles, Chicanos of many persuasions discussed seriously the possibility of organizing behind Roybal as their candidate for Mayor. They realized that he was their biggest political asset. That meeting was symptomatic of the processes at work off center-stage in the movement: it illustrates, once again, the waning of those forces that formed over the last 10 years within this movement.

Roybal's comeback is no minor development. Looking back, it is clear that his kind of thinking and his kind of building have laid the foundation for the emergence of Spanish-speaking people as a political force in California.

Pragmatic outlook

The mood since the last presidential election is very sober. The years of shout, it seems, are passing us by, if as yet incompletely. The tactics out in the streets and the confused strategies of accepting and rejecting the political process have been found wanting. With it has come a frustration, a new tolerance, and a willingness to try change that works. That may mean putting away the joys and satisfactions of the movement's more colorful past, but those who were out just for the ride are already falling by the wayside, while others adopt harsher rhetoric and move to the outer limits of brown fanaticism. Their bitter message of hate and exclusion, however, is not where the Chicano community is nurtured, and the future is not with them.

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Ratification in '74?

Women's Rights Amendment Is Eight States Short

Equality of rights under the law shall not be denied or abridged by the United States, or by any state, on account of sex.

Thirty of the 38 states needed to approve the addition of those 24 words to the United States Constitution have ratified the Equal Rights Amendment since Congress proposed it on March 21, 1972. The ERA was voted down or blocked for 1973 in 15 states, but while ratification is apparently an irreversible procedure, rejection is not, and those working for adoption retain their optimism that some of these will reconsider and that some of the remaining states that have not yet acted on the ERA will ratify it in the next year. If so, that would be about average for ratification of a constitutional amendment, which has taken from 10 to 47 months and an average of a little more than 17 months. The Equal Rights Amendment will have until March 21, 1979, however, to complete ratification.

Five states — Alabama, Arizona, Illinois, Louisiana and Missouri — have yet to take definitive action this year on the ERA. The California Commission on the Status of Women described the situation in these states as follows:

- *Alabama.* The Legislature has just convened, with the amendment in the rules committee of both chambers, and passage unlikely this session.
- *Arizona.* ERA was held in committee. (Possible special session this fall. The next regular session convenes in January.)
- *Illinois.* An unusual legal question was raised after the House voted 95-72 for the ERA, but after having adopted a resolution earlier requiring 107 votes to pass amendments. The House Rules Committee, however, maintains that only 89 votes, a simple majority, are needed. The question of which majority applies is being taken to court by the amendment's sponsors.
- *Louisiana.* A limited fiscal session has just convened, though the ERA is expected to be introduced in the Senate, where a more favorable reception is expected than in the House.
- *Missouri.* The outlook is considered to be favorable, but adjournment is in June.

Not all 15 of the states that voted down or blocked the ERA, either on the floor or in committee, are considered to be irreconcilable, according to the California commission. It describes the situation in these states:

- *Arkansas.* The Senate amended the proposal, thus killing it. (Legislature reconvenes in January.)
- *Florida.* The ERA was defeated in the House 56-64 last month, but its supporters predict reversal in 1974.
- *Georgia.* Returned to committee for interim study.
- *Indiana.* Passed House, defeated in Senate. (Next session convenes in January.)
- *Maine.* Passed House, lost by a single vote in Senate, 16-15. (Special session convenes in January.)
- *Mississippi.* Senate committee voted 7-2 not to send ERA out for a floor vote. House didn't consider it. (Next session convenes in January.)
- *Montana.* House passed ERA 73-23, but Senate tabled it after 13 tie votes on second reading. (New session convenes in January.)
- *Nevada.* Defeated in Senate. (Next session convenes in 1975.)
- *North Carolina.* Passed in House, defeated in Senate, 27-23. (Next regular session convenes in 1975, but possibility of a special session next year.)
- *North Dakota.* Defeated in House. (Next session convenes in 1975.)
- *Ohio.* Passed in House, but denied floor action by 6-3 Senate committee vote. (Next regular session in 1974.)
- *Oklahoma.* Defeated in committee. (Next regular session convenes in 1975.)
- *South Carolina.* The House voted 62-44 on April 26th to table the ERA for this year.
- *Utah.* Defeated. (Next regular session convenes in January.)
- *Virginia.* Defeated in House committee, but assigned to joint legislative committee for study and possible action in next regular session (which convenes in January.)

The Chairwoman of the California Commission on the Status of Women, Anita Miller, explained the optimistic outlook of ERA's supporters by saying, "Positive action by 30 states in one year is a great accomplishment. It indicates the wide acceptance of the principal involved in equality under the law for all people." She expects ratification in 1974, which would turn the principal into law during the United States' bicentennial year of 1976, since a two-year interval between ratification and the effective date is provided to enable states to bring their laws into conformity.

Meanwhile, the opposition to the ERA has been increasingly active since the California Legislature finally ratified the proposed amendment last November after Senate President pro Tem James Mills finally agreed to let the ERA out of the Rules Committee, where he had kept it from what turned out to be easy passage on the floor. Assemblyman Floyd Wakefield's attempt to withdraw that ratification, Assembly Joint Resolution 26, has been referred to the Assembly Judiciary Committee, where it is scheduled to be heard June 5th. Whether a state can withdraw an act of ratification, however, is uncertain at best. Though the U.S. Supreme Court refused in 1939 to act on this question, judging it to be political, rather than constitutional, Congress has twice (in the case of ratification of the 14th and 15th amendments) refused to recognize votes by three states attempting to withdraw earlier ratification.

STATES THAT HAVE RATIFIED ERA

Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Nebraska ("rescinded"), New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Washington, West Virginia, Wisconsin, Wyoming.

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Women Fare Well on Appointment to the Judiciary, But Promotions are Rare

By Ann Morris

Adorning many of the nation's courthouses is a statue of a woman, blindfolded and holding scales aloft. She is Justice, and her blindfold is meant, of course, to suggest the court's perfect impartiality toward all who come before it, no matter the race, the income, or, presumably, the sex. It is ironic, therefore, that the statue of Justice is often the closest thing to female representation to be found in a judicial system based upon equality under the law. A survey of the judiciary in California, where a relative handful of women are judges, and mostly on the lowest level, shows that little has been done to get womanhood off that pedestal outside the courthouse and into a place on the largely white male bastion that is the court bench.

It may be that with so many problems yet to be resolved in removing artificial barriers keeping women and other minority groups from participating equally elsewhere in American society that concern for female representation in the judiciary has a relatively low priority. But, proponents of greater representation for women in the judiciary argue that, apart from providing another avenue for women to achieve their own potential, the female judge may bring something unique to the bench. As Judge Jacqueline Taber of the Oakland-Piedmont Municipal Court put it: "It's important that we have more women because we bring a different perspective since we have had a different background. Thus, we need more women for the same reason we need more blacks or Chinese: we all understand things differently."

39 women judges

In California, with Governor Reagan's appointments in March of Bessie Dreibelbis and Artemis Henderson to Municipal Court judgeships in Livermore and San Diego, there are 39 women among the state's 1,100 judges (3.5 percent). Thirteen of these women judges — one-third of the total — sit on justice court benches, the lowest level of the judicial system, where a law degree is not necessarily required for appointment. Judicial appointments at this level are made by county officials. In the courts of record, where appointments are made by the Governor, 20 of the remaining 26 women sit at the lowest level there, Municipal Court, five sit on the Superior Court bench (three of these in Los Angeles), and one, Justice Mildred Lillie, is serving on a state Court of Appeals. No woman has yet risen to the top of the judicial hierarchy in California, the state Supreme Court. Moreover, women in the judiciary have seldom been appointed to such prestigious groups as the Judicial Council, which oversees the operations of the various levels of the court system, making rules for administration, practice, and procedures.

Indeed it is on the question of level of service in the judiciary that judges interviewed were most outspoken. The appointment process appears to be as fair to women as is possible considering the shortage of women attorneys and the absence of a policy of reverse discrimination. But several women judges have expressed adamently that there is indeed a reluctance on the part of Governor Reagan to appoint women to significant judicial positions as they become available. Judge Nancy Belcher Watson, who was recently elected to the Superior Court in Los Angeles, said her primary reason for seeking election was her "discouragement at the Governor's failure to elevate women" by appointment.

Appointment to the bench

The appointment of judges is of primary concern, however, to those who seek greater representation of women in the judiciary, because, although judges are elected in California, almost all of them are appointed first to fill an unexpired term. Once appointed, judges are almost never defeated in election. Since the Governor appoints the judges for courts of record, it is there that one must look first to determine whether there is a fair representation of women.

On taking office in 1967, Reagan announced that he would take politics out of judicial selection and base appointments instead on the merit of each prospective appointee. Under the judicial-selection procedure instituted to accomplish this, the names of candidates to fill an open judgeship are submitted to the Governor's staff for initial consideration. These names may come from a prospective candidate directly, from a friend, or, more often, from a bar group. The initial screening is performed by Ned Hutchinson, the Governor's appointment secretary. Hutchinson verifies, among other things, that all candidates meet the basic job requirements — for example, being a member of the State Bar who has practiced law for 5 to 10 years, depending on the court level being considered.

The names of those who meet the basic criteria are submitted to three groups for their independent evaluation. One of these is a Judicial Selection Advisory Board, a temporary board for each candidate composed of people familiar with the candidate's ability, personal habits, and community involvement. Five persons are selected for each such board — a Superior Court judge (chosen by the Governor's office), an attorney (selected by the State Bar), and three lay members (selected, also, by the Governor's office). Generally, an attempt is

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made to select a woman as one of these latter. Names are also screened by the State Bar's 15-member Board of Governors, whose first female member, Joanne Garvey, feels that her presence now precludes sex discrimination in the board's evaluation. The Commission on Judicial Appointments, a three-member body consisting of the Chief Justice of the Supreme Court, the Attorney General, and a presiding Superior Court judge, also participates in the evaluation process; none of its members has ever been a woman.

These three evaluating groups consider such factors as temperament, health, type of law practice, and whether the candidate is acceptable to both bench and bar. These factors yield an overall evaluation, which is submitted to the Governor. A candidate will be found to be "exceptionally well qualified", "well qualified", "qualified", or "not qualified" for the appointment, but no recommendation is made by these groups. On the basis of the evaluations, however, Hutchinson compiles recommendations for the Governor. In doing so, he also considers the additional factor of age, since the Governor prefers to appoint persons under 55 to Superior Court and those under 50 to Municipal Court. Sex, said Hutchinson, is not a factor either affirmatively or negatively. That may be, but the tacit assumption persists that the judicial candidate will be male. For example, the "Personal Data Questionnaire" sent by the Governor to all candidates, includes this request: "Indicate your marital status; if married, the maiden name of your wife, and the names of your children."

Few female lawyers

Asked why so few women are selected, Hutchinson said that very few women have been considered — only 38 have applied or been nominated during Reagan's six years in office, while there have been almost 3,200 male applications. The main reason why there are so few women applicants or nominees is, not surprisingly, that there are relatively few women lawyers. Because qualifying requirements for all but one justice court judgeship call for a law degree (unless one is elevated after having served at least five years at the justice court level), the number of female lawyers is pertinent. In California, only 1,300 of the State Bar's 35,000 members are women — 3.7 percent of the total.

The explanation of such a scarcity, obviously, must include the fact that relatively few women aspire to be lawyers, or professionals of any kind. But reinforcing the still prevalent notion that a woman's place is in the home is the tradition that the law is a male profession typically characterized as being aggressive and combative. Whether or not this characterization is accurate was considered by Beatrice Dinerman in an article published in October 1969 by the *American Bar Association Journal*. She found not only that the typical male attorney is not the "pillar of strength, virility, and decisiveness" he is often thought to be, but also that many typically feminine traits find their way into the practice of law; she cites as examples "flexibility, tact, intuition, sensitivity and an ability to weigh and evaluate human factors." That discrimination exists within the profession, for whatever reason, is suggested by a 1967 study by James J. White, Associate Professor of Law at the University of Michigan. White found that, once within the legal profession, women do indeed feel the effects of sex discrimination. They earn, he reported, an average of $8,000 less per year than men with similar backgrounds and experience.

Women in the Judicial and Legal Professions

Court Level	Total No. Judges	No. Women Judges	Percentage Women
Supreme Court	7	0	0
Court of Appeals	48	1	2.1
Superior Court	463	5	1.1
Municipal Court	359	20	5.5
SUB TOTAL*:	877	26	3.0
Justice Court	222	13	5.9
TOTAL ALL COURTS:	1,099	39	3.5
Attorneys	35,000	1,300	3.7

*Courts of record for which appointees must be attorneys or five-year justice court judges.

His studies also confirmed that women lawyers often have greater difficulty finding jobs than do men. As a result, women are more likely to specialize (having found, White speculated, a comfortable niche, free of discriminatory pressures), or to accept positions as law librarians or legal-research assistants. This latter factor is particularly relevant to the evaluation of women for judgeships: the Governor is impressed by an individual with a well-balanced background. A law librarian or probate specialist may not qualify in this regard.

It may be, however, that the average woman lawyer, who does overcome such obstacles and attain a well-rounded practice, is of a higher caliber than a man of similar station. As Judge Kathleen Parker once put it, "Like Avis, we have to try harder." This contention is substantiated by Roberta Ralph, President of the Women Lawyers Association of Los Angeles. Study after study, she said, have shown that women who succeed in law perform at a higher level than their male counterparts, that, although there are fewer women lawyers from whom to draw for judicial appointments, a higher percentage of them should be of judicial caliber. This contention is further borne out by the fact that of the 38 women evaluated for judgeships in the last six years, Reagan has selected 11 (29%); correspondingly, of almost 3,200 male candidates, 500 have been selected (16%). Since the Governor maintains that selections are based solely on merit, it appears that indeed a higher percentage of women than men are qualified for the bench.

Enrollment groups

Because perceptions about the status of women judges vary, little has been done to increase their number. There are, for example, no affirmative-action programs nor quotas of any kind to predetermine the make-up of the state's courts. Indirectly, however, some progress can be noted. Law schools report that from 1966 to 1970, enrollment of women students increased from 4.3 percent to 7.8 percent nationwide, and California law schools report an increase approaching 20 percent female enrollment in many cases. This increase will not reflect itself in the judiciary, of course, until those graduates have been practicing for several years. Furthermore, because more attention is being focused on the status of women generally, female lawyers themselves are beginning to play a more active part in bar and community activities.

In short, while Justice remains a blindfolded female figure, the sights of women are beginning to be set on more active involvement within the legal profession — and that's a necessary first step.

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Nixon Decision to Stay Out of 'the Garbage Business' Leaves New State Board With More Mandate Than Funds

By BRUCE KEPPEL

Just what did the Nixon Administration mean when one of the President's close advisors suggested publicly that the federal government "shouldn't be in the garbage business"? Whatever the precise meaning — and the Environmental Protection Agency in Washington is still trying to learn it — the immediate effect of the off-hand remark was to shut off federal funds authorized by the Resource Recovery Act of 1970, which Congress had extended into 1974.

California had been counting on getting several million dollars in federal grants under that act to help solve the state's increasingly complex problem of disposing of solid waste. In particular, however, federal funds were expected to cover much of the cost of the necessary research and development to find ways of recovering at reasonable cost reusable resources now burned or buried after a single use. With the added stimulus of the federal act, the California Legislature passed the Solid Waste Management and Resource Recovery Act of 1972, which Governor Reagan signed on July 13th. This had ended five years of bipartisan bickering, including a gubernatorial veto of substantially the same legislation in 1971, and an even longer period of jurisdictional disputation (see *California Journal*, October 1971, p. 279).

As a result now of the Nixon administration decision to reduce federal aid for "the garbage business", when the California Solid Waste Management Board took office May 4th, it found itself with a budget of $228,000 in state funds to match a like amount that now represents the last available federal funds. "Beyond that," EPA's regional director in San Francisco, John Merrill, said in an interview, "it is very nebulous what the federal solid-waste program will contain." What that means to state government was expressed succinctly by Donald R. Andres, who directs the state Department of Public Health's solid-waste management effort, when he said in an interview, "The feds have just copped out."

A start in planning

Even so, the half a million dollars now available to the board will be sufficient, Andres and Merrill agree, for the state to undertake its planning and coordinating functions to see that solid-waste disposal is conducted in a sanitary and nonpolluting manner. But it will scarcely allow development of what the act specifies is to be a "major state-directed research and development program . . . to develop technologically and economically feasible systems for the collection, reduction, separation, recovery, conversion, and recycling of all solid wastes." Since sanitary, nonpolluting, and well-coordinated disposal plans do nothing of themselves to conserve diminishing resources, it is this portion of the Solid Waste Management and Resource Recovery Act that is threatened right at the outset.

Managing solid waste

In any case, the act creates a seven-member Solid Waste Management Board within the state Resources Agency. Five of its members are appointed by the Governor, one by the Assembly Speaker, and one by the Senate Rules Committee, according to specific criteria (see box). The board must come up with its state policy on solid-waste management by 1975. This policy according to the act, "may include the location, design, operation, maintenance, and ultimate reuse of solid-waste processing and disposal facilities. . . ."

Under that same 1975 deadline, the board is to

Solid-Waste Management Board Is Named

The Solid Waste Management Board, which came into existence May 1st, is composed of seven voting members appointed by the Governor, the Assembly Speaker, and the Senate Committee on Rules according to criteria set out in the Solid Waste Management and Resources Recovery Act. These, and the members, are as follows:

- *The Governor's appointees:* a city councilman from a city of at least 250,000 population (Robert R. Wilkinson of Los Angeles); a county supervisor from a county with at least 500,000 residents (Supervisor Alfred M. Dias, chairman of the Contra Costa County Board of Supervisors); a representative of the public at large "who shall have specialized education and experience in environmental quality and pollution control" (presumably David L. Baker, Orange County Supervisor and former chairman of the State Environmental Study Council); and two representatives of the private solid-waste management industry, one from southern California and one from northern California (Hacob Shirvanian, general manager of Western Refuse Hauling, Inc., of Gardena, and John P. Moscone, president of Golden Gate Disposal Company of San Francico).
- *The Speaker's appointee* "shall have specialized education and experience in natural resources conservation and resources recovery" (Charles R. Goldman, a professor in the Division of Environmental Studies, University of California, Davis).
- *The Senate Rules Committee appointee* "shall be a registered civil engineer" (Frank R. Bowerman, chairman of the Department of Civil Engineering and director of the Environmental Engineering Program at the University of Southern California).

The chief of the Department of Conservation's Division of Mines and Geology, and the directors of the Department of Health and Agriculture are nonvoting members. The board has a salaried executive secretary, not yet named.

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adopt a State Solid Waste Resource Recovery Program. This will be drafted for it by a 25-member advisory council appointed by the Governor (see box). Appointees are designated in such a way as to give voice not only to the public and private interests that collect and dispose of solid waste, which ranges from food scraps to junked cars and machinery, but also to those that produce much of it. Six of the members, for example, represent firms producing goods, such as cans and containers, that are destined to become waste matter. The council's draft program is to be submitted to the board by July 1974, by which time, it is hoped, federal funds and additional state revenue will have been made available.

Local government's role

Clearly set out in the act, however, is the primacy of local government's role in the solid-waste planning process. "It is the intent of the Legislature," Article 3 begins, "that the primary responsibility for adequate solid-waste management and planning shall rest with local government, with the state bearing primary responsibility for the development and maintenance of the state policy for solid-waste management and the State Solid Waste Resource Recovery Program, but the local operations will have to conform with the statewide standards." While such delineation of responsibility suggests the concern of local government, not to mention private interests, over state intervention in an area that has hitherto been the exclusive province of cities and counties and special districts, the support of the League of California Cities reflects a growing awareness on the part of local government that an overriding statewide responsibility does exist for regional and areawide planning in solid-waste management. There is encouragement in the act, moreover, for such regional agencies as the Southern California Association of Governments to take the leadership in the planning effort within their areas.

The resulting local and regional plans are then to be reveiwed by the state advisory council and submitted to the Solid Waste Management Board for incorporation in its state plan. (This is the same process, incidentally, adopted for transportation planning to be undertaken in the new Department of Transportation, which begins operation July 1st. See *California Journal*, March 1973, p. 83.)

'A slab of refuse'

The magnitude of the problem of solid-waste management is reflected in the rhetorical flights used in recent years to dramatize just how much solid waste Californians produce. Governor Reagan, for example, has put the annual total at 75 million tons, a quantity he described as "enough to fill up Lake Shasta in a decade." Various legislators have likened the amount, with minor variations, to "a slab of refuse 100 feet wide and 30 feet high from Mexico to Oregon." Assemblyman Edwin L. Z'berg, a leading Assembly environmentalist and co-author of the Solid Waste Management Act, described the problem in these terms during last year's legislative campaign to win passage: "California alone will generate 2.5 billion tons of solid waste by the year 2000. That is enough to cover 3,000 square miles — the combined total of Sacramento, San Francisco, and Ventura counties — to a depth of five feet."

The traditional methods of disposing of this solid waste were to burn or bury it. Since January 1972, however, a ban on open burning in dumps and a limit on agricultural burning to periods when atmospheric conditions minimize air pollution have forced local disposal facilities to rely principally on sanitary land-fill

Resource Recovery Council Membership

Governor Reagan appoints the entire membership of the Solid Waste Management and Resource Recovery Advisory Council, within the Solid Waste Management Board. Its main job is to draft a program to assure the maximum recovery of resources from solid-waste matter. It is also constituted to give a voice to the interests involved. The advisory council's membership includes, by law:

- *Two representatives of private solid waste handlers:* Leonard Stefanelli, President, Sunset Scavange Co., San Francisco; Ed G. Burr, President, La Mea Disposal Co
- *Two representatives of public solid waste handlers:* Frederick C. Butcher, Burbank Director of Public Works; James F. Martin, Fresno Director of Public Works.
- *Two representatives of private solid waste disposal facility operators*: Adam Schleining, President, Santa Ana Commercial Co., Palm Springs; James E. O'Connor, President, Fleet Disposal, Inc., South Laguna.
- *Two representatives of public solid waste disposal facility operators:* James F. Martinek, Riverside Director of Public Works; S. Myron Tatarian, San Francisco Director of Public Works.
- *Six representatives of major private solid waste producing industries, including the glass, can, paper, and chemical industries:* Roger W. Erskine, Vice President, Container Corporation of America, Saratoga; John E. Gallagher, Manager of Environmental Control, Continental Can Co., Los Altos; Edward D. Goldstein, President, Glass Containers Corp., Fullerton; Harry M. Tonkin, President, 7-Up Bottling Co., Sacramento; Jeffrey W. Meyer, President, Wilson & George Meyer and Co., Hillsborough; one vacancy.
- *One local public health officer:* Richard H. Svihus, Santa Cruz County Director of Public Health.
- *Three representatives of the agriculture and timber industries:* Henry K. Trobitz, Manager, Simpson Timber Co., Arcata; Clayton A. Record Jr., San Jacinto dairyman; Walter A. Mercer, Director, Western Research Laboratory, Northern Canners Association, El Cerrito.
- *Two representatives of well-established citizen-action solid-waste resource-recovery programs: Hariett* Wieder, Administrative Coordinator to the Mayor of Los Angeles; Jean Siri, housewife and conservationist, Richmond.
- *One county supervisor:* Robin R. Jeskey of Plumas County.
- *One city councilman:* Mayor Ray D. Prueter of Port Hueneme.
- *Three representatives of the public at large, each of whom possesses special knowledge or experience in solid-waste management and resource recovery, the conservation of natural resources, or environmental pollution:* John A. Bohn, Piedmont attorney; Peter Schrager, President, Turek Frozen Foods, Inc., Hillsborough; Dr. Howard Laitin, Manager of Systems Analysis, Hughes Aircraft Co., Torrance.

In addition, the Solid Waste Management Board's Executive Officer, who is still to be named, and the Directors of Health and of Agriculture, and the Chief of the Division of Mines and Geology in the Department of Conservation are non-voting members. The appointed members receive $28 per diem and travel expenses.

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Merger plan would abolish new board

Assemblyman Edwin L. Z'berg, a principal architect of the legislation creating the Solid Waste Management Board, has introduced a bill to abolish it. Z'berg's Assembly Bill 3, 173 pages long as introduced, would create a State Environmental Quality Board, which would assume the responsibilities of the Solid Waste Management Board, the Water Resources Control Board and its Office of Planning and Research, the Air Resources Board, the Water Resources Control Board, and its regional boards, the Environmental Quality Study Council, county air-pollution control districts, the Tahoe Regional Planning Agency. It also transfers certain functions of the Resources Agency concerning environmental impact reports and functions of the Business and Transportation and Resources Agencies relating to the California Environmental Protection Program.

AB 3 as drafted thus represents a significant regrouping of state government forces to do battle against those who would destroy the environment whether by land or by sea or by air. It is not the first attempt to consolidate the environment regulatory agencies that have proliferated during the last decade — both Z'berg and Governor Reagan have tried before — and AB 3 is notable at this point chiefly for the ambitious series of hearings set out for it. These began this month within the Assembly Natural Resources and Conservation Committee, whose chairman is Z'berg. After hearing testimony aimed at yielding a summary of the state of the state, environmentally speaking, Z'berg plans to zero in on regional environmental problems, such as Riverside County's smog problem.

One goal of the hearings is to increase support for AB 3, which Z'berg expects to amend as necessary to take into account the findings of the hearings. The big push for enactment, therefore, won't come before 1974, as the first of the new two-year legislative sessions enters its second year.

operations. Land fill, under which solid waste is compacted and covered with earth daily, does avoid the pollution of burning, but it, like burning, also prohibits the recovery of reusable resources. It also has the disadvantage of using up yet another diminishing resource, land.

While a research and development program to develop feasible alternatives is to be undertaken eventually, even the technology now available could markedly improve the recovery of resources now lost in waste-disposal operations, California and federal experts agree, if it could be put together in such a way as to reduce disposal costs to about $7 to $10 a ton. But that costs money, too. With the federal government an uncertain ally at best, the pressure is on state government and, through it, on the packaging industry generally, to somehow fill the revenue gap.

Lesson learned

The fact that these interests did come to back the solid-waste legislation, authored mainly by Z'berg and Senator John Nejedly (SB5), suggests that a lesson in self-interest may have been learned. It is a lesson Z'berg put clearly a year ago in a talk to the National Solid Waste Management Conference sponsored by the California Chamber of Commerce. "Only recently and belatedly," Z'berg said, "have some enlightened segments of the solid-waste producing industry — most notably some elements of the packaging industry — accepted the notion that as part of the problem they have a responsibility to be part of the solution." With citizen interest in protecting the environment grown to such an extent as to slow development along California's coastline and ban nonreturnable cans in Oregon and British Columbia, Z'berg thinks that the message may be getting through. The introduction by freshman Assemblyman Julian Dixon of Assembly Bill 594, which would ban nonreturnable cans in California, is present at least as a reminder of Z'berg's admonition to industry to get into the act or "the chances for passage of discriminatory legislation will rapidly increase."

One means of raising state revenue to finance the research-and-development aspects of the new act, Z'berg went on to suggest, would be to tax all material used in packaging. Legislation to do that, or some version of that, has not yet been introduced, but when the "ban-the-can" bill gets to Z'berg's Committee on Natural Resources and Conservation the stage will be set, it is acknowledged in the Legislature.

So, whether or not the federal government decides to get "in the garbage business" — the phrase is attributed, incidentally, to John D. Erlichman, who resigned April 30th as Nixon's chief domestic affairs advisor — California's government is already in it. Though inadequately funded at the outset, the Solid Waste Management Board may at least correct the deficiency of fragmented governmental responsibility and authority that has been pointed to in earlier studies of solid-waste management in California (notably by the state Department of Public Health). But, unless funds are made available to permit the board to move beyond this short-term planning stage, those who drafted the legislation say, the 15 pages of the Solid Waste Management and Resource Recovery Act of 1972 will be, in terms of a meaningful State Resource Recovery Program, just so much used (and probably unrecycled) paper.

Manpower department sought

Governor Reagan's legislative program to merge the Departments of Rehabilitation and Human Resources Development into a new Department of Manpower was introduced as AB 1103 (Bill Greene) and SB 601 (Lagomarsino) last month. In a special message to the Legislature on the 23rd, Reagan said, "The needs for manpower services are becoming more urgent while our programs are becoming more fragmented." The merger would, in effect, put all the state's job-finding programs in one department. The legislation also seeks authority to channel federal manpower funds to California through the proposed department. On the local level, manpower services would be handled through a single agency, the community manpower center.

The Governor, in his 1973 state of the state address (see *California Journal*, February 1973, p. 65) estimated that 200,000 new jobs must be created each year through 1980 to maintain existing employment.

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'Rube Goldberg Combination'

Congress Tries to Regain the Power of the Purse

By WILLIAM F. LIPMAN

Branded in the public's mind as fiscally irresponsible and treated with open disdain by the President's budget officers, Congress last October established the Joint Study Committee (JSC) on Budget Control in the hope of regaining some power over the nation's purse strings. The membership of the JSC was drawn almost exclusively from the membership of the appropriations and tax-writing committees of the two houses. Its charter was to propose procedures for "improving congressional control over budgetary outlay and receipt totals" and to match an "overall view of each year's budgetary outlays" with an "overall view of the anticipated revenues for that year". Given Congress' present mechanisms for budget analysis and control, these objectives were certainly praiseworthy. There is already sharp disagreement, however, as to whether the same description applies to the JSC's report and recommendations, which were published April 18th.

The report, which, if implemented, may have very important consequences for California, reflects a far greater concern for levels of federal spending than for the organization, techniques, and staff required to arm Congress for responsible budget action — setting spending goals and priorities as well as ceilings — and for effective confrontation with the President and the Office of Management and Budget (OMB). This, despite the fact that the committee had the good sense to call for testimony from several state experts in the field, including A. Alan Post, California's Legislative Analyst, who was lead-off witness at an afternoon hearing April 9th. The report's preoccupation with the need to limit federal spending is in part a reaction to the very skillful use of this issue by the President, but it also reflects, in no small part, the conservative fiscal philosophy that prevails among the JSC membership.

The study proposes a Rube Goldberg combination of organization, procedures, rules, and staffing that would, perhaps, somewhat better equip the Congress to deal with budget policy. But the real thrust of the JSC effort can be deduced from its chief recommendation regarding the establishment of a "Committee on the Budget" in each house. These committees would draw up and report out, at least twice each year (early and late in the session), a concurrent resolution to: (1) set limits on budget outlay and new budget authority; (2) set levels for revenue collection and for the public debt; and (3) allocate "the maximum permitted budget outlays and new budget authority among the various subcommittees of the Appropriations Committees, based on the recommendations from those committees . . ." Floor amendments to this allocation would be permitted, but spending increases would have to be offset by decreases (and amendments reducing spending would be considered first), and any increase in spending ceilings would require a two-thirds vote.

In the House, the Committee on Budget would be composed of seven members from Appropriations and seven from Ways and Means, appointed by their committees, and seven from the remaining membership, appointed by the Speaker. The Senate's 15-member committee would have five members from Appropriations and five from Finance, also selected by their committee colleagues, and five at-large members appointed by the President pro Tempore. Chairmanship of the committees would alternate annually between members of the appropriations and tax committees.

Reinforced by the new procedures and rules, formation of the new committees would expand enormously the power of the senior members of the parent committees. In the House, the effect would be to counter recent reforms seeking to diffuse power. And centralization of spending decisions would very likely eliminate so-called "backdoor" financing, also with mixed benefits. However valid the argument against this practice of skirting the regular budget process to get financing for special projects, the new system would diminish, if not totally eliminate, the ability of a committee, such as House Education and Labor, to make a humane response to a problem like the discovery of "black lung" disease among coal miners. Since 1970, miners have received about $1 billion in benefits under a form of backdoor financing; had they been forced to rely upon the conventional appropriations process, they probably would have received nothing.

The JSC reports also calls for a new joint staff, headed by a "Legislative Budget Director", to serve the two Committees on the Budget. The report lauds California's Legislative Analyst and Joint Legislative Budget Committee as a model, but the recommended apparatus and procedures are far removed from the simple prescriptive clarity of California's 1951 authorizing statute or the proven operational framework linking Alan Post and his staff to the Legislature's budget analysis and control needs. Nor does the report have much to say about the role, size, and functions of the joint staff or about its relationship to the existing appropriations and tax committee staffs.

Budget reform may be an idea whose time has finally come for the Congress, but before a concurrent resolution approving the JSC recommendations is placed on anyone's Consent Calendar, it might be well to ask how potentially representative and responsive the two new committees are likely to be. One could begin by examining the pool of membership on the appropriations and tax committees belonging to the five states largest in population (California, New York, Pennsylvania, Texas, and Illinois). These five states have some 72 million citizens, about one-third of the nation's total population, but together (and disregarding party or philosophy) they have but 16 of 55 members on House Appropriations, nine of 25 on Ways and Means, one of 24 on Senate Appropriations, and none of the 16 members of Senate Finance. Those are not the kind of numbers that hold great promise for the major states.

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Berkeley Politics Are Far From Conventional, But There Are Some Lessons to Be Learned Anyway

By Robert Feinbaum

Without doubt, Berkeley is not an ordinary city. Worldwide publicity has made it a symbol of militancy and protest. But beneath the posturing and fiery rhetoric lies a deeper reality — a diverse city's search for solutions to the problems of the 1970s.

Like many other central cities and older suburbs throughout the state and the nation, Berkeley's population has been changing. Over 60 percent lived elsewhere five years before the Census Bureau's survey in 1970. Minority residents and young people between age 17 and 24 now make up nearly half the population. These increases have placed greater demands upon the city for more and better social services.

At the same time that demands have been escalating rapidly, the city's resources have been increasing only modestly. Over the past 20 years, Berkeley has been gradually losing its young, middle-class, white families. And, due in large measure to its high tax rate, the city has failed to attract major new business. In addition, its major employer, the University of California, pays no taxes, and doesn't even pay for the city services it uses. All this adds up to the same bind faced by cities throughout California and the nation — increasing demands and less rapidly increasing resources.

Revenue-sharing has only added to the city's discomfiture. In the 1972-73 fiscal year, Berkeley will receive $1,485,000, and for the following fiscal year just slightly less. But with cutbacks in the Neighborhood Youth Corps and the Model Cities programs, coupled with completion of five mini-parks under federal open-space grants, and the end of a federally financed building-code-enforcement project in West Berkeley, there may actually be less federal money coming into the city in the future.

Lopsided majority

Officially, Berkeley's city elections are non-partisan. But, up until 1961, Republicans controlled the City Council. Then, the Democrats elected three members, and as one of them, Wilmont Sweeney, the first black councilman, remarked, "We turned it around." For the past dozen years Democrats have been in the majority. In the city as a whole, their proportion has been increasing, until they currently outnumber Republicans by five to one.

As often happens when one party has a lopsided majority, conflicts begin to develop within it, and these can be more bitter than those between it and the opposition. Berkeley's Democratic split started in 1966 with an attempt to oust liberal Representative Jeffrey Cohelan (who, before his elevation to Congress, had been the first publically identified Democrat elected to the Berkeley City Council). Writer Bob Scheer's campaign was unsuccessful, but it gave birth to the Community for New Politics, which ran three candidates in the following year's city elections. None of the insurgents was elected, but an ally, Ron Dellums, was. In 1969, the Coalition, as the radicals called themselves, came close to electing one of their own to the council. Then, in the primary election of 1970, Councilman Dellums upset Cohelan, and went on to win election to Congress. The next year's city elections saw the radicals succeed in capturing three of the four seats up for grabs, and helping to elect a mayor whom they regarded as sympathetic to them.

Most observers credited the radicals' unity as the key to their success. Only four Coalition candidates ran against an assortment of 13 reasonably strong liberals, moderates, and conservatives. The only non-radical to win, attorney Edward Kallgren, had the backing of all the important endorsing organizations.

United fronts

That lesson was not lost on Berkeley politicos. This year, the city election saw both radicals and moderates organize united fronts. Each side approached candidate-selection in a different manner, however.

The Coalition radicals, starting in December, conducted a series of open meetings to draft a platform and to select candidates. At its nominating convention, held in a school auditorium, 1,200 people chose a slate of four candidates — Peter Birdsall, a University of California graduate student; Margot Dashiell, who was supported by the Black Caucus; Lenny Goldberg, another University of California graduate, representing the left wing within the Coalition; and Ying Lee Kelley, an Asian who had been active in Women for Peace.

The moderate slate, called the Berkeley Four, was put together in a meeting of 70 associates held in Councilman Kallgren's home. Nominated were incumbents Wilmont Sweeney and Susan Hone (who had been appointed to fill a vacancy during the previous year); University of California student Joseph Garrett; and black, law professor Henry Ramsey Jr. All the Berkeley Four candidates were Democrats, and their campaign statements were liberal in tone. That caused disgruntlement among many of the 12,000 Republicans whose votes were vital to electoral success. Then, Mike Culbert, conservative editor of the *Berkeley Daily Gazette* defended the liberal slate as "the only game in town. And April 17," he continued, "marks the last real effort on the part of rational, reasonable people — among

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whom Democrats . . . are in the majority — to hold the line against the far-out platform and far-out, soak-business, drive-industry-away, junk-city-government mentality of the radical April Coalition."

Shortly after Culbert's editorial, former Councilman John DeBonis and several other candidates dropped out of the race. However, despite great pressure, incumbent Borden Price, a Republican, sought re-election. So did Harry Overstreet, a black architect, who had the support of Assemblyman John Miller and Senator Nicholas Petris. When the ballots were counted, neither of these "independents" was able to muster more than 5,500 votes, only about 30 percent of what the lowest member of each slate received.

Sectional strength

The two slates drew their strength from different parts of the city. The Coalition's base was in the areas surrounding the University campus, populated heavily by students and other young people. The Berkeley Four drew its strongest support from the Berkeley Hills and the Claremont areas, both upper middle-class, white districts. Also, with two strong black candidates — Sweeney and Ramsey — the Four had a substantial base in the black areas of southwest Berkeley.

Of the candidates elected — Hone, Sweeney, and Ramsey, together with Ying Kelley from the Coalition — none was a student. In sample precincts throughout the city, it was clear that Coalition candidates Birdsall and Goldberg lagged behind the other members of their ticket, as did the Berkeley Four's Garrett.

Although the election was viewed as crucial by radicals and liberals alike, it never generated the expected excitement among the electorate. Turnout was down from a record 80 percent in 1971 to 66 percent. It was much lower in predominantly black areas, and somewhat off in other parts of the city. In campus precincts, where a heavy turnout was essential to the Coalition's success, voting fell below predicted levels.

A number of explanations for the relatively low turnout of college-age voters have been offered. Perhaps contributing factors were, as radical Councilwoman Loni Hancock suggested, a spirit of "general retrenchment from political activity" in the wake of President Nixon's victory in November, or "confusion spread by the Berkeley Four's liberal-sounding program." More likely, the extra pressure that the Coalition put on the campus area had a negative effect on some voters, and an apparent lessening of interest in politics among Berkeley undergraduates contributed more generally to non-voting.

In the white, middle-class Berkeley Hills, non-radical votes were concentrated on a single slate rather than spread out over a whole batch of candidates. Only 56 percent of the vote for non-radicals in 1971 went to their top four vote-getters. In this election, 84 percent of that vote went to the Berkeley Four.

Not only were both sides sure that unity was necessary to win the election, they also believed it essential to have a working majority on the council in order to accomplish their objectives. For the past two years, the council has been bogged down in interminable bickering. Black radicals D'Army Bailey and Ira Simmons, elected on the Coalition ticket, have had bitter differences with their radical colleague, Loni Hancock, as well as other council members. Meetings have been lengthy and, in many cases, disorderly.

Two lines of action were spurred by the stalemate on the council. One was a movement to recall Councilman Bailey, which was supported by the *Gazette*, and led by Wilmont Sweeney. Although petitions were printed, the issue was deemed too explosive to handle, and was tacitly removed from the campaign. On the other side of the political fence, various groups dissatisfied with the council's inaction on their ideas, qualified initiatives for the ballot. Most of these groups were aligned with the Coalition. These issues formed the skeleton for the radical-liberal contest.

Eight measures qualified for the ballot. The first, calling for 40 hours pay for 30 hours work for city employees, was sponsored by the Socialist Workers Party. In a rare display of unanimity, radicals and liberals joined in denouncing the proposal as costly and ineffective.

The second, entitled the Neighborhood Preservation Initiative, aroused more controversy. According to its sponsors, it was a response to the "continued demolition of Berkeley's older homes and their replacement by high-rent, high-rise ticky-tackies." It called for revision of the city's Master Plan, for environmental impact reports on new construction and demolitions, and required use permits for virtually all new residential construction. In granting such permits, the Board of Adjustments was required to take into account whether the proposed construction met with approval of the neighborhood in which it was to be located.

Coalition candidates expressed vigorous support for number two, while three of the Berkeley Four came out against the proposal. The nub of the argument centered on neighborhood veto power over construction. The Coalition platform called for city planning and development to be "governed by grassroots neighborhood organizations," while the Berkeley Four wanted residents of the affected neighborhoods to guide enlightened planners in "preserving Berkeley's diversity and preventing unrestrained growth."

National trend

Neighborhood preservation passed with nearly 60 percent of the voters approving it. This fit Berkeley into a national trend to limit development that has made its appearance in other California cities. A month before the election, voters in the city of Alameda approved a ballot measure that banned construction of multiple dwellings except to replace existing low-cost housing. The week before the Berkeley election, San Jose passed a measure to prohibit new residential construction for two years in overcrowded school districts.

Initiative number three, the Berkeley Marijuana Initiative (BMI), directed the police to give lowest priority to enforcement of laws against possession, use, and cultivation of marijuana, and prohibited them from making arrests without permission from the City Council. All major candidates favored passage, with the exception of Wilmont Sweeney, who felt it would be illegal to order police to go against existing state law (a position that was enunciated after passage of the initiative by Attorney General Evelle Younger). Some people suspected that the BMI was on the ballot primarily to interest students in voting. Its sponsors were strong Coalition backers. In any case, the state won a court order May 3rd blocking enforcement of the ordinance pending a hearing set for May 17th.

During the past several years, the Berkeley Police Department has been under attack for more than its

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marijuana policies. In 1971, a radical proposal for "community control of police" would have split the police force into three departments, one for the student areas around the campus, another for predominantly black west Berkeley, and a third for the middle-class, white neighborhoods. All officers would have had to live in the neighborhoods they policed and would have been accountable to elected, policy-making civilian boards. The initiative failed.

In April's election there were four measures to change the structure of the police department. These provided for: public review of all mutual aid pacts with other police agencies; officers to live within the city; limitation of the number and type of weapons used by the police department; and establishment of a nine-member police review commission, appointed by the City Council, which would make policy and investigate citizens' complaints against police officers.

Coalition candidates supported the four police-control initiatives as a first step "toward bringing the police under the control of the people of Berkeley." The Police Officers Association and the Chamber of Commerce adamently opposed them. The Berkeley Four supported disclosure of mutual aid pacts, opposed the review commission, and split over the residency requirement (three opposed) and the weaponry changes (again, three opposed).

The major issue of the campaign was contained in the last initiative, Measure 8, the proposal to municipalize the electrical distribution facilities of the Pacific Gas and Electric Company within the City of Berkeley. It had been put on the ballot by an organization known as RIOT (Refusers of Illegal and Oppressive Taxes). The radicals strongly supported this measure as one way to "stem the outflow of scarce city economic resources, to create new jobs, reduce taxes and increase city revenues." The Berkeley Four, just as strongly, opposed it as a costly gamble that would divert money away from needed social programs in the hope of some future gain. The proposal was defeated.

Both sides agreed on the need for additional sources of city revenue. Two years before, Warren Widener, who narrowly won the mayorality (defeating Councilman Sweeney by 47 votes out of over 51,000 cast), had proposed a municipal income tax as part of his platform. Nothing had come of the proposal. The Berkeley Four, enthusiastically endorsed by Widener, suggested exploring the "feasibility of the income tax as a replacement to the property tax." They made it clear, however, that they felt that an income tax should be instituted on a regional basis, in cooperation with other cities in the Bay Area.

The radicals unequivocally supported a progressive tax on incomes above $8,000, as well as a policy of charging the University for city services "at an amount approximately equivalent to what they would pay in property taxes." They also supported acquisition of PG&E as a revenue-producing measure.

Berkeley's example

Berkeley's politics differs from other cities' in some significant ways. It has a large, college-educated population, and thus the potential for clearer articulation of issues than in the average city. Berkeley is undoubtedly more highly politicized than most other cities anywhere, with tight factional control evident during this election campaign. Issues loom large in the voters' evaluation of candidates here, while elsewhere "friends and neighbors politics" is often still the rule.

These differences have arisen only in the past dozen years as new residents have transformed Berkeley from a sleepy suburb into a highly politicized city. Population changes may do the same for other California cities. Indeed, in Santa Cruz, a slate of business-oriented candidates recently made the "Berkeley-ization" of their city a significant issue.

Whether Berkeley has any guidance to offer other cities on such specific matters as drug policy, physical development, police control, or city financing is a matter of perspective. The Coalition radicals certainly think it does: they see Berkeley, with themselves in control, serving as a model of participatory democratic government for people everywhere.

Throughout the campaign, the issue of how to achieve open, responsive government emerged in a variety of ways. The two sides had quite different responses, based on differences in philosophy and on contrasting views of effective city government.

The Coalition emphasized the need for participation in the affairs of government. But it went further, committing itself to "eliminating, and ultimately destroying, the myth that elite, professional types are always best suited for leadership." It wanted to give much of the power over physical planning, health services, and police activities to neighborhood groups, in order to allow "people to control their own lives." And it was wary of the development of regional government "because of the danger of taking power away from the people who reside in the inner cities."

The radicals made a great deal of the Berkeley Four's method of selection, pointing to the closed meeting at Councilman Kallgren's house and the secret session that placed Sue Hone on the council as examples of the type of politics characteristic of the other slate, and unresponsive to the people of the city.

The Berkeley Four looked upon responsiveness quite differently. They, too, favored open government, but they pointed to the council's endless hearings and acrimonious debates as stalling action on problems that demand solutions. "Progressive City Government Doesn't Have to be Ineffective" was the title of one of their campaign ads, which continued: "This campaign is a contest between those who want to do a job and those who want to make a gesture, between those who are committed to programs that will work and those who are committed to an ideaology without workable plans." They regarded experts and professionals as necessary — indeed, as indispensible for working out feasible solutions to city problems. Though favoring neighborhood contributions to planning, the Berkeley Four looked askance at any variety of neighborhood control.

The heart of the issue was whether the council would respond to programs formulated by "the incredible community energy" that Coalition candidate Lenny Goldberg talked about, or would look to the professional staff as the locus for program development. Behind that is a question that faces larger cities more squarely than it does Berkeley: whether it is possible to redefine city functions to allow different types of people within the city to make policy over matters that most immediately concern them. Berkeley provided no final solutions, but it did set the limits within which the debate, there as elsewhere, will continue.

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Students Work from Within Now to Influence the Governance of Higher Education

By EDWARD ST. JOHN

The campus protest movement started by the Free Speech Movement at Berkeley briefly awakened the public and public officials to the ills of the modern university. At first, public attention and criticism focused on student protestors themselves and on the campus administrators unable to maintain control. Then, for a brief period, the public seemed to catch a glimpse of the problems facing campuses: the low priority given undergraduate instruction, the lack of relevance of the education offered, and the inflexibility of the system itself. But public interest soon declined, and the problems brought to the public spotlight by student dissenters were left to the campuses to resolve.

Without support from the public or the Legislature, reform in higher education has not come easily. Over the decades, a system of academic decision-making, or governance, has developed that is extremely resistant to change. Once led by powerful presidents, campus administrators were the major force in educational decision-making; but more recently, while maintaining considerable influence through the budget process, administrators have lost the ability to shape the system. Over the years, the faculties have become the major power blocs in higher education and now not only control academic decisions, but also police their own ranks and set their own priorities. In short, a system of governance has developed in higher education that gives both faculty and administration the power to halt academic reform, but gives neither the power to initiate it. As the only force on campus advocating reform, students have been left to do what they could from a largely impotent position.

Student concern and protest about issues facing higher education and the rest of society is difficult to separate from the other arenas of conflict facing higher education, such as the loss of legitimacy with the public, the lack of relevance in educational programs, and the rigidity of values as they affect the governance system. Yet student concern, if not student protest, is sure to play a major role in resolving these problems, if they are to be resolved. Student activism, past and present has been a considerable influence in defining the issues confronting the educational establishment and has become the principal agent for reform.

The student struggle

Contrary to popular belief, student discontent and protest is not unique to the sixties; it dates back to early American history, and student protest about both on-campus and off-campus issues has been common throughout this century. The difference in magnitude between the earlier protests and the protests of the sixties was due to the enormous growth in campus size and population coupled with the infiltration of protest into the home via television. The twenties, like the mid-sixties, were marked by on-campus protest about campus issues: ROTC (Howard, Michigan, UC Berkeley), governing boards (Fisk), and football (Harvard). Students of the day were also concerned about academic matters, as indicated by a statement issued in 1926 by the first president of the National Federation of Students, in which one of the goals the organization was to achieve was ". . . cooperation between the faculty and undergraduates in American colleges on matters relating to courses of study, student government and administration of discipline . . . . The so-called revolt of youth is nothing more than a desire to share with the faculty the responsibilities and privileges of educational administration."

During the peace movement of the thirties, students began to protest on campus about off-campus issues, much as they did during the late sixties and early seventies. For example, the National Student League and the League for Industrial Freedom organized a walkout in which over one-third of the nation's college students participated, making it more successful in terms of participation than the response to the invasion of Cambodia in the spring of 1970. But the movement toward pacifism, which grew throughout the thirties, died suddenly with the start of the Second World War. The following decades were quiet; the forties brought to campuses a wave of ex-GI's who did not seem to question the system, and the students of the fifties, who were in college during the McCarthy Era and witnessed the cross-country investigation of their professors conducted by the House Committee on Un-American Activities (HUAC), were dubbed "the silent generation".

Decade of protest

The rapid growth of higher education during the fifties suggested that the institutions could respond to the changing needs of students by adding new programs. But during this period, students gradually became aware of the ills of American society and of the rigid educational system that was developing. Eventually, a decade of protest rose out of student frustration with the system and their inability to influence or change it. At first, it was against a social system that persecuted people unfairly — because of race or beliefs (or suspected beliefs) — and students learned

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to "sit-in" in the early sixties to protest segregation and the HUAC hearings. Then, after four years of protest off campus, students began to look again at their own communities, the campuses. Mario Savio, one of the leaders of the Free Speech Movement in Berkeley and its best-known spokesman, early expressed concerns that were to remain important to students for nearly a decade: "It was understandable that resentment should develop among students," he said. "However, it was not always so easy for students to understand the causes of their resentment. It is not as easy to see what is oppressing the subject as it is to see what is oppressing others. Nevertheless, we students did become more and more aware of the factory education we were being provided."

It was at this time also that Clark Kerr, then president of the University of California, gave a clear warning to those who cared to listen in a series of lectures at Harvard University entitled *The Uses of The University*. Kerr spoke of the "incipient revolt of undergraduates," which was once directed against "faculty in *loco parentis*" but was now against "faculty *in absentia*". Kerr went on to point out that students found themselves "under a blanket of impersonal rules" regulating admission, scholarships, examinations, and degrees, and he blamed a faculty "intent on few rules for itself" while it created a "plethora of them for students." The students, according to Kerr, wanted to be treated as individuals.

Broadening focus

Had students been more involved in campus governance, much of the protest movement — including the Free Speech Movement which spawned it — might never have occurred. (Studies by Dr. Earl J. McGrath and others indicate, for example, that where students already participated in campus policy-making, campus disorders were rare.) But as the sixties progressed, the focus of campus protest gradually broadened, until, as was the case during the invasion of Cambodia, campus administrators had no control over resolving the issues being protested. That protest proved to be a turning point, however, for in the aftermath of Cambodia student activism changed form both off campus and on. In the late sixties and early seventies, student activists, encouraged by their newly won voting right and changing public attitudes, became involved in local, state, and national politics. Student participation, in fact, has had considerable impact on the formulation of issues and the election of candidates at all levels. On campus, students renewed efforts to reform the educational system and to work with the faculty and administration to explore ways of bringing student concern into the campus governance system.

Examples of change . . .

Higher education is not altogether without examples of how the system can change so students can become a part of the governance process. Antioch College has had "community government" for decades. For the larger and more complex campuses and systems, there is the example of the Canadian university and colleges, which drew students into academic governance in the sixties, reacting to the Berkeley disturbances and local demands for change far more rapidly than the American system. To the Canadians, apparently, it was not a question of how to "stifle this new wave of student sentiment" but, rather, "how to develop channels into which it can flow constructively", Dr. Earl J. McGrath reported in a recent study.

. . . but not in California

Although California generally, and Berkeley specifically, has been in the forefront of the student protest movement nationally, that leadership has done little to bring about more democratic decision-making on California campuses. A recent study of academic government on the Berkeley campus, by Kenneth P. Mortimer, revealed that the decision-making process on that campus has remained rigid and unchanging in spite of student concern and protest. For example, at the time of the 1966 student strike, a widely publicized special study group was commissioned by the Academic Senate to make recommendations on student participation, but the Senate failed to act on the report produced.

Students have not ceased their efforts to gain recognition within the governance process, however. They have made progress at the level of the University Board of Regents, where students now make monthly presentations. At the state level, the UC Student Lobby works actively on issues in higher education. And students on other campuses in the state have been more successful than those at Berkeley in bringing their concerns to bear on the governance process.

The Davis experience

Students on the Davis campus of the University of California have been more fortunate in making their concern known to administration than students have on other campuses in the state. For example, during the late sixties the student-run "experimental college" had considerable influence on academic reforms such as the creation of new courses, independent study and individual major options, and their concern about the student life functions administered by the university have resulted in housing policy reforms and counseling options. More recently, however, there has been student concern about the reform in the governance process in addition to concern about changes in program.

Expansion of the campus intern concept was considered by students at UC Davis to be an important step toward improving the role of students in the institutional decision process. (Interns, in this context, are students working part-time in the administration, carrying out administrative tasks, serving on committees, or working with faculty or administrators, and presumably carrying student interest and advice into the administration.) The first attempt to expand the intern concept came within the boundaries of the traditional administration. At the start of the year, there were fewer than 10 students working on campus as interns, including two who worked for the chancellor. After newspaper articles on the subject and discussion between students and administrative officials, the intern concept gained support, and, as a result, the number of interns increased to over 30 by mid-year. During winter and spring quarters, the chancellor, two vice chancellors, and a faculty member were involved in a seminar program for the interns. This initial success, coupled with the apparent openness of administrative officials, left students with a feeling that the problems facing the governance process were indeed soluble. But satisfaction with this initial success did not last long. Many administrators directly involved in student matters ceased to be friendly to students when criticized. And the intern programs, initiated with high hopes of

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bringing student concerns into the administration, revealed weaknesses, too. Some administrators, for example, hired favorite students instead of using a selection process open to all students, but perhaps most disillusioning of all was the realization that important decisions continued to be made without student involvement.

A test case

In October 1971, the regents approved reallocation of approximately $3 million of student educational fees from capital outlay to new programs in counseling and advising and for relief of counseling programs supported by registration fees. This in large part resulted from the protest of student leaders to the use of educational fees for constructing new buildings. By midyear, news of the new money reached the various UC campuses. Davis was to receive approximately $125,000 for innovative programs and a lesser amount for existing programs. The initial method of allocating the funds on the Davis campus was a bureaucratic process, which left those already in control in position to determine the fate of the new funds. It resulted in a plan to add professional administrators and counselors to existing programs and to start two additional programs staffed by professionals hired to advise students. But student leaders, who felt they had influenced the original decision to divert funds from capital outlay at the regent level, became upset with these early results, and their protest brought down this process.

A new process was then started. It was opened to students and faculty, whose proposals were submitted to a student-faculty task force appointed by the chancellor. Although the resulting process seemed more competitive than normal campus decision-making, it yielded results more diverse and more oriented toward meeting student needs than was true of the original plan.

One of the nine programs recommended by the task force and subsequently funded by the administration was the Academic Advising Intern Program, a proposal authored by two student interns. Designed to place student "peer" advisors in academic departments across the campus, the new program had the potential of formalizing informal student information systems, while helping students and faculty work together to improve student advising at the department level. Learning from the strengths and weaknesses of the earlier intern program, the proposed new program incorporated a definite selection process, continuous training, and shared responsibility. Each student intern was to be responsible to the two students working as program coordinators, assigned faculty supervisors, and the students whom they were to advise.

Implementation of the peer program presented a significant hurdle. Colleges and departments had to recognize the need for advising interns who would share responsibility with faculty for getting information to students. Over the summer, therefore, the student organizers of the program worked with deans from three colleges and faculty from more than 20 departments, laying the groundwork for the new program. In the fall the two coordinators and 25 interns were selected and assigned to departments. From that point, it was up to the interns and their faculty advisors to make the program work, which they did. In fact, recent discussions with administrators and faculty supervisors suggest that the new program has been more successful than either group had originally anticipated. Both had agreed to try the new program, it seems, more to appease outraged students than because of commitment to the peer concept itself.

This experience helped demonstrate that students can influence educational administration, even if they have not been accepted as equal partners in the formulation of decisions affecting them. The Davis experience in some ways is indicative of the status of students in governance generally. At Davis, it is increasingly possible for students to influence decisions, and even to work changes through the system. But most daily decisions in the university continue to be made without student involvement. There is a movement toward increased student involvement in educational decision-making at Davis and in higher education generally, but the mere increase in the number of students serving on committees or working on other administrative functions does not mean students are a major force in the decision process.

Toward greater involvement

Recent research on higher education today reveals a national trend toward greater student participation. In *Should Students Share the Power?*, Dr. McGrath, suggests that today some form of student involvement is the norm:

> The main generalization these facts permit is that although until three or four years ago American colleges and university severely limited the involvement of students in academic government, now membership in one or another "faculty" committee is becoming the rule rather than the exception. The findings reveal that in the fall of 1969, 88.3 percent of the institutions that supplied usable information had admitted some students to membership in at least one policy making body.

Yet, McGrath acknowledges that this data can be misleading, for student voting membership on major policy-making bodies is severely limited. "It would be a mistake," McGrath says, "to conclude that because students do increasingly participate in deliberation and actions of some institutional committees, they have now gained a position of decisive or even strong influence in the top bodies concerned with educational issues."

Intrinsic truths about academic governance today further complicate the apparent move toward student inclusion. First of all, formal administrative decision-making, based on a hierarchical arrangement, hinders student entrance into the process; and even though the faculty, which controls educational policy and other educational decisions, governs itself more by informal association than by formal committee structure, the process does not give students access to decision-making.

Critical examination

If students are to be considered partners in university governance, then the governance system itself should be examined critically. Largely a holdover from the Middle Ages, the campus government structure does not fit well with the democratic ideals of American society. A system that excludes students, younger faculty, and non-academic employees, not to mention the potential contributions of the public, hardly seems consonant with one of the requisites that American society has placed upon the university: to educate youth so that it might better participate in democratic institutions.

The eventual goal for those concerned about the

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student role in governance, then, should be creation of a new system consistent with the uniqueness of each campus and in keeping with the concept of community government. Such a move, however, requires a coming together of all constituencies to set new goals, which violates the "muddling through" approach dominant in educational politics. Thus, a more workable alternative may be to gain student involvement by modifying the existing system rather than by a thorough restructuring. Realistic objectives for those who support greater student involvement in academic governance include:

- *Educational programs.* There is surprisingly little information available to students on how the governance system actually works. Knowing the system's history and operation would help make students more effective participants.
- *Intern concept.* The placement of student interns in administrative and faculty hierarchies is another way of increasing their knowledge of how the system works and their overall effectiveness. Interns can be held accountable for their actions and decisions, which overcomes one of the major obstacles to student involvement. Intern programs should be developed, however, in a way that will insure student advocacy training, and fair selection.
- *Committees.* Standing committees still make a sizeable portion of the academic decisions, and informal association resulting from committee work accounts for a still larger portion. Students should be included in all institutional committees and in the committee appointment processes.
- *Ad hoc groups.* Task forces and other *ad hoc* groups increasingly play a strong role in educational decision-making, and students should be included on all *ad hoc* groups making recommendations related to student concerns and should be included in their appointment process.
- *Student government.* Despite its drawbacks, student government can play an important role in facilitating student involvement in educational governance as long as higher education maintains its present system of parallel faculty and administrative governance structures. Student government representatives can advocate inclusion of students at all levels, be involved in selection process for interns and committee members, and assume delegation of authority in some instances.

Over the past decade, and especially in the last few years, students have made significant progress toward bringing their concerns into the decision-making of their institutions. But the chaos that has dominated the educational setting during this period has proved, probably more than anything else, that reform in the governance process is a prerequisite to educational reform. Existing processes leave students with no alternatives but to react to decisions already rendered — and in the past violent protest has too often been the unhappy result. Academic and administrative decision-making in higher education should be modified to include those who are affected by decisions while alternatives are sought to the present system. In any case, change toward creation of more democratic institutions is a vital part of the response higher education must make to the needs of students and society.

Recent Supreme Court

The following are decision and other actions of more than passing interest announced by the California Supreme Court in April.

Los Angeles Free Press conviction reversed

On April 2nd, the court ruled unanimously that Arthur G. Kunkin, editor and owner of the *Los Angeles Free Press,* and reporter Gerald R. Applebaum could not be found guilty of receiving stolen property, a personnel roster of the state Bureau of Narcotic Enforcement, which they published, on the basis of evidence presented in their trial. The opinion, which reversed the action of the trial court, was written by Chief Justice Donald R. Wright.

The *Free Press* published the roster after it was given to Applebaum by a mail clerk in the Los Angeles office of the Attorney General. The roster, which listed names, home addresses, and telephone numbers of undercover narcotics agents throughout the state, but was not labeled "secret" or "confidential", was eventually returned to the Attorney General's Office, and the fingerprints of Kunkin and Applebaum were found on it.

Kunkin and Applebaum were subsequently convicted in Superior Court of receiving stolen property. They appealed directly to the Supreme Court, which in its reversal said that there was no evidence to support the prosecution's contention that Kunkin and Applebaum knew that the mail clerk had stolen the list. The court, however, did term publication of the roster "gross and callous irresponsibility."

Advertising by door-to-door salesmen

On April 5th in a second unanimous decision, this one written by Justice Stanley Mosk, the court clarified the authority of the state's Attorney General to take action against alleged false or misleading advertising by door-to-door salesmen.

The decision concerned a court action filed by the Attorney General against Jayhill Corporation and other subsidiaries of Grolier, Inc., a publisher of encyclopedias, for fraudulent sales representations by its salespeople. The trial court had ruled against the Attorney General on several questions of legal remedy, and the Attorney General appealed to the Supreme Court for a pretrial review.

Ordering the trial court to proceed with the trial, the Supreme Court ruled that the firm might not only be enjoined from future fraudulent sales if found guilty of the charges, but might also be ordered to refund money collected from defrauded customers. The court also noted that the Legislature had recently authorized the Attorney Genereal to seek punitive damages

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Decisions

of up to $2,500 for each violation and a civil penalty of the same amount. In so ruling, the court stated that the Attorney General need not specify the name of each customer and salesperson, but that the number of violations is to be determined by the number of customers found to have been defrauded.

Disclosure of patient-psychiatrist communications

In a unanimous decision written by Justice Louis H. Burke and announced on April 11th, the court ruled that confidential communications between a patient and his or her psychiatrist do not have to be disclosed in cases in which the patient files a legal action for physical injuries not related to mental or emotional health.

Janet Roberts injured in an automobile accident, filed a personal injury suit, saying that she subsequently suffered neck pain, dizzy spells, and headaches. Upon inquiry by the defending insurance company, Roberts reported her medical history, including psychiatric treatment, prior to the accident. Her psychiatrist refused to surrender his records when subpoenaed, however, on the ground that they were privileged. His records were then impounded, and the issue went to the Supreme Court.

Previous decisions had established, said the court, that even if the patient waives the confidentiality privilege by voluntarily putting his or her mental or emotional condition into litigation, a physician is required to disclose only the patient's treatment and related information concerning the specific injury or impairment that is the subject of litigation. In the case at hand, the court said, Roberts had only alleged physical injuries and there had been no showing that those injuries were related to earlier psychiatric treatment. The plaintiff had, in fact, expressly disclaimed any damages for mental or emotional distress. Accordingly, the trial court was ordered to return the psychiatrist's record.

Right to bail

Any person charged with a crime other than a capital offense has an absolute right to bail, whether or not the person is believed to be dangerous to himself or others, according to a 6-1 decision announced April 18th. The decision was written by Chief Justice Wright, with Justice Burke dissenting.

The case concerned Albert B. Underwood III, a student, who was arrested for possession of two homemade "sawed-off" shotguns. While on bail awaiting trial, Underwood was rearrested on a charge of mailing a live pipe-bomb to the police station where he was originally booked. When brought to court on the resulting charge of attempted murder, he was jailed without opportunity to post bail. He then filed a writ of *habeas corpus* with the Supreme Court.

Wright, speaking for the majority, said that the California constitutional provision guaranteeing all persons the right to bail except in capital cases had been deliberately inserted in the constitution in 1849 and reenacted in 1879. "We are compelled to the conclusion that the detention of persons dangerous to themselves or others is not contemplated within our criminal bail system, and if it becomes necessary to detain such persons, authorization therefore must be found elsewhere, either in existing or future provisions of the law." The court then listed other provisions of the law that may be invoked for that purpose. In the case at hand, the court noted that Underwood had also been determined to be insane in a subsequent court proceeding and was being confined by the Department of Mental Hygiene.

In his dissent, Justice Burke argued that trial court judges possess the inherent power to deny bail, or to impose reasonable conditions upon granting it, in any case in which the defendant "poses a substantial risk of harm to others or to himself."

Administrative entrapment

Administrative officials, like law enforcement officers, may not entrap persons into committing illegal acts in an attempt to enforce administrative regulations, according to a decision announced April 19th. In a unanimous decision written by Justice Mathew O. Tobriner, the court said that a doctor called before a medical disciplinary board on charges of prescribing excessive doses of narcotics to two female narcotics agents posing as patients, had rightfully claimed in his defense that the two agents had entrapped him. Agreeing with the trial court, which had reversed a medical board ruling that entrapment was not a permissible defense, the Supreme Court said that the doctor had been "lured, flattered, and persuaded by young women seeking to 'ensnare' him."

"The defense of entrapment rests on the simple proposition that the state has no business fostering crime," the court said. The purpose in recognizing the entrapment defense is to preserve public confidence in the legal process. Thus, the court ruled, it is essential to the fair administration of justice that the defense of entrapment be recognized in proceedings before both courts and administrative agencies. Further, the court emphasized, it is particularly important when, as here, a single agency — the Medical Board — has the power both to investigate and to decide upon the charges.

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California Journal/*NEWSBRIEFS*

Sharp growth in prison population stalls state plan to close facilities

A sharp increase in the state prison population over the last 10 months prompted state Director of Corrections Ray Procunier to ask the Legislature April 26th for a $6.8 million increase in the department's 1973-74 budget. The number of inmates reached a low of 18,950 last summer, Procunier said, but has climbed steadily to 20,600 now. He attributed the increase to a tougher parole policy followed by the California Adult Authority, which explained the change in emphasis in a policy statement issued March 27th. That statement set an order of priorities to be used in considering parole and judging parole-violators: protection of society; punishment to "fit the criminal rather than the crime"; deterrence of the offender by the punishment imposed and deterrence of others by the example; and rehabilitation of those amendable to it.

Under that policy, department figures show, the number of inmates released declined from a high of 2,641 in the second quarter of 1971 to a low of 1,275 in the first quarter of this year. At the same time, the number of parolees returned to prison rose from 500 a quarter last year to about 800 a quarter now.

To accommodate the increased population, Procunier said, the department intends to continue to operate the California Conservation Center in Susanville (Lassen County) as a special vocational training center, instead of closing it this summer. The south block of San Quentin Prison will be reactivated, and the planned closure of the prison by 1975 "appears remote". Finally, the correctional training wing at Soledad Prison in Monterey County will be reopened. These moves will provide 1,674 additional beds and require 352 additional employees.

Justice in Los Angeles is unevenly applied, Rand study concludes

A study of Los Angeles County's system of criminal justice, commissioned by District Attorney Joseph P. Busch two years ago when he succeeded Evelle J. Younger, was released by Busch on April 24th. The chief finding of the Rand Corporation study is that criminal justice is administered unevenly in different agencies and jurisdictions within the county. The $110,000 federally funded study found:

- "No reasonable set of performance standards currently exists for criminal justice agencies."
- "The performance of criminal justice agencies in Los Angeles County varies considerably from those in the rest of the state."
- "The disparity between felony arrests and felony convictions is much greater in Los Angeles County than elsewhere in the state."
- "Wide variations exist among local police departments, Offices of the District Attorney, and the courts, in the way they process similar offenses."
- "The system offers strong incentives to settle cases without a trial."
- "Defendants who have secured some form of pretrial release are more likely to be acquitted and less likely to receive a felony sentence if convicted than defendants who have not been released. Defendants who are black, and to a lesser extent those who are Mexican-American, are more likely to be acquitted, less likely to plead guilty, and less likely to receive a felony sentence if convicted than Anglo-American defendants," (which, among other things, the study points out, could indicate a higher arrest rate among minorities and weaker cases brought against these members of minorities brought to trial, a judgment Busch seemed disinclined to accept).
- "It is now unnecessarily difficult for D.A. top management to monitor the performance of the District Attorney's Branch and Area Offices."

The study also notes that no information now exists to allow monitoring or diagnosis of the problem of the disparity between felony arrests and convictions in Los Angeles County and elsewhere, or of the variations in the way local law-enforcement agencies process similar offenses.

"The type of disparities which appear in this report," District Attorney Busch told a Town Hall audience the day of the report's release, "must be of concern to all criminal justice agencies. And they cannot simply be explained by the individual differences in cases. We must seek greater consistency in criminal justice."

Democrat favored to fill vacancy in 38th Assembly District

Democrat Frank Vicencia, a former lobbyist in Sacramento, led the field with 25.7 percent of the vote in the 38th Assembly District special election May 1st, and is expected to win easily in the runoff May 29th. His opponents will be Republican Bob McLennan who came in third with 15.3 percent of the vote, and George Dear, Peace and Freedom Party, who was 12th in a field of 14. Total turnout was only 32.5 percent of the voters.

The vacancy was created by the death December 6th of Assemblyman Carley Porter. As the table that follows shows, three other vacant seats remain to be filled.

1973 Special Election Box Score

District	Seat of	Primary Date	Results
22nd S.D.	Carrell (D) Died	Jan. 30th	Alan Robbins (D) won in runoff, Feb. 27th.
38th S.D.	Burgener (R) Elected to Congress	March 6th	Assem. John Stull won in primary
38th A.D.	Porter (D) Died	May 1st	Runoff on May 29th
67th A.D.	Townsend (D) Died	May 29th	—
80th A.D.	Stull (R) Elected to Senate	May 29th	—
12th A.D.	Monagan (R) Washington appointment	June 12th	—

Court rejects GOP bid to oust Democrat from his new Senate seat

Senator Alan Robbins, who won a seat in the upper house in a special election Feburary 27th, will not have to surrender it as sought in a petition filed in the

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state Court of Appeals by two Republican Party officials. By a 2-1 vote April 26th, the court refused, without comment, to grant a hearing on the petition. The Republicans contended that Robbins should be disqualified because he failed to meet a one-year residency requirement in his North Hollywood district. Had the move to unseat Robbins succeeded, the balance of power in the Senate would have tipped from the present 20-20 tie to favor the Republicans, pending a new election.

Hearings set on state's revised plan to meet U.S. clean air standards

Hearings will be held this month in Fresno, San Francisco, San Diego, and Sacramento on a revised plan by the California Air Resources Board to meet federal air-quality standards. The state plan, originally approved last year, was found deficient by the federal Environmental Protection Agency in not assuring compliance with federal standards by 1977.

The changes affect the San Francisco Bay Area, the Sacramento Valley, the San Joaquin Valley, and San Diego air basins. They include revised controls on agricultural burning, petroleum distribution (including pumping gasoline into underground service station tanks), and the use of some organic solvents, among other things. Concerning vehicle emissions, the revised plan states that "if furthering evaluation indicates that a program of vehicle emission inspection and maintenance should be enacted, legislation will be sought to implement such a program."

Second study agrees that Capitol, unsafe, should be reconstructed

VTN Consolidated, Inc., a private engineering firm based in Irvine, released the findings of its study of the Capitol last month. They confirmed earlier reports by the state Office of Architecture and Construction that the century-old structure is unsafe and should be evacuated and reconstructed. "In summary," the VTN report states, "the west wing . . . possesses a very low level of seismic integrity, and the probability of significant seismic activity in the local area during the next century is high. This combination of factors makes the present condition of the building quite hazardous for human occupancy." (That these words have been taken to heart was indicated on Saturday, April 28, when a munitions train exploded at Roseville, about 15 miles north of Sacramento and the Capitol was closed to visitors as unsafe.)

The wing contains the offices of the Lieutenant Governor, the Secretary of State, Treasurer, and representatives of the news media. The Legislative Analyst's staff moved out after the state report was published, and Secretary of State Edmund G. Brown Jr. said that he plans to relocate as soon as adequate space elsewhere can be found.

Rebuilding the Capitol for its continued present use would cost an estimated $41 million. This is a course Governor Reagan has said he would like to see taken. Alternatives are to abandon the structure entirely, or to restore it for use as a museum. In either case, a new capitol would have to be built elsewhere at a cost estimated variously from $65 to $100 million.

CALIFORNIA CALENDAR

Meetings of the following state boards, commissions, and councils are listed each month; if one of these is not listed, it can be assumed that it is not scheduled to meet this month. Boards, commissions, and councils to be included are: Board of Education; Board of Equalization; Board of Governors of the California Community Colleges; Board of Trustees of the California State University and Colleges; Consumer Advisory Council; Coordinating Council for Higher Education; Council on Criminal Justice; Highway Commission; Little Hoover Commission; Park and Recreation Commission; Regents of the University of California; and Social Welfare Board.

May 14-18	**Board of Equalization.** 333 East Walnut St., Pasadena. 2 p.m.
May 15-16	**Highway Commission.** Public Works Building, 1120 N St., Sacramento. 10 a.m.
May 18	**Consumer Advisory Council.** Department of Consumer Affairs, 1020 N St., Sacramento. Subject: Senior citizen consumer problems. **Regents of the University of California.** Los Angeles Convention Center, 1201 S. Figueroa St.
May 22-23	**Board of Trustees of the California State University and Colleges.** Third Floor Auditorium, Office of the Chancellor, 5670 Wilshire Blvd., Los Angeles.
May 23-24	**Board of Equalization.** Board Headquarters, 1020 N St., Sacramento. 2 p.m.
May 24	**Council on Criminal Justice.** Host of Sacramento Airport Hotel. 9:30 a.m.
May 24-25	**Social Welfare Board.** Hilton Inn, San Francisco International Airport, Burlingame. 7:30 p.m.
May 29	**Special Elections.** Runoff to fill the 38th state Assembly District seat left vacant by the death of Carley Porter, and primaries to fill the 67th District seat left vacant by the death of Larry Townsend and the 80th Assembly District seat vacated by John Stull's election to the Senate. Runoffs will be June 25th, if needed.
June 5	**Coordinating Council for Higher Education.** Camellia Room, Host of Sacramento Airport Hotel. 9 a.m.
June 6-8	**Board of Equalization.** Board Headquarters, 1020 N St., Sacramento. 2 p.m.
June 8-9	**Law Revision Commission.** Los Angeles Airport. (Contact Commission c/o Stanford University for details.)
June 12	**Special Election.** To fill the 12th Assembly District seat vacated by Robert Monagan. Possible runoff July 10.

The following boards and commissions follow a standard monthly schedule and thus are not included in the Calendar: Allocation Board, second Tuesday of each month; Board of Agriculture, first Thursday; Commission of Housing and Community Development, third Wednesday of every other month; Lands Commission, last Thursday of each month; Merit Award Board, second Wednesday; Public Works Board, last Monday; Reclamation Board, second and fourth Fridays; San Francisco Bay Conservation and Development Commission, first and third Thursdays; Soil Conservation Commission, fourth Tuesday; Transportation Board, first Thursday; Water Commission, first Friday; and Water Resources Control Board, first and third Thursdays. Please contact the agency for meeting time and place.

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Selected State Government Reports

CONSUMER AFFAIRS

Consumer Fraud Task Force, Final Report; prepared by the Consumer Fraud Task Force, Department of Consumer Affairs, 1020 N St., Sacramento 95814. (No charge.) March 1973.

1973 Information Digest, Including Compendium of Currently Available Consumer Redress; by the Department of Consumer Affairs, P.O. Box 310, Sacramento 95802. ($5.00) April 1973. Two volumes: Volume I, 389 p.; Volume II, 225 p.

COURTS AND THE LAW

1973 Judicial Council Report and Annual Report of the Administrative Office of the Courts; by the Judicial Council, State Building, 455 Golden Gate Ave., Room 4200, San Francisco 94102. (No charge.) January 1973. 316 p. Includes a history of courts of appeal.

Prosecution of Adult Felony Defendants in Los Angeles County: A Policy Perspective; by Peter W. Greenwood and others, published by the Rand Corporation, 1700 Main St., Santa Monica 90406. March 1973. 156 p. Prepared for the Los Angeles County District Attorney's Office, with the support of the National Institute of Law Enforcement and Criminal Justice.

EDUCATION

California School Districts Spending Less Than the Specified Amount for Teachers' Salaries; by the State Department of Education, 721 Capitol Mall, Sacramento 95814. (No charge) April 1973. 13 p.

Foreign Language Instruction in California Public Schools, 1971-72; by the State Department of Education, 721 Capitol Mall, Sacramento 95814. (No charge) April 1973. 5 p.

Allocation of Capital Outlay Funds for Higher Education; prepared by the Legislative Analyst, 925 L Street, Suite 650, Sacramento 95814. (No charge.) April 1973. 4 p.

Area Vocational Education Committees (Preliminary Report); prepared by the Legislative Analyst, 925 L Street, Suite 650, Sacramento 95814. (No charge.) March 1973. 9 p.

EMPLOYMENT

A Report on Occupational Preparation Programs; prepared by the Legislative Analyst, 925 L Street, Suite 650, Sacramento 95814. (No charge) March 1973. 19 p.

College Graduates and Jobs; Adjusting to a New Labor Market Situation; by The Carnegie Commission on Higher Education, published by McGraw-Hill, 1221 Avenue of the Americas, New York, N.Y. 10020. (Single copies $4.50) April 1973. 242 p.

Linkage Between the Labor Market and the Aid to Families with Dependent Children Program, Statewide and in Principal Urbanized Areas of California; by the Los Angeles County Department of Public Social Service, Bureau of Special Operations, Research Section, 4900 Triggs St., City of Commerce, CA 90022. (No charge.) March 1973. A review of the impact of unemployment on welfare.

GOVERNMENT AND POLITICS

Statement of Vote, General Election, November 7, 1972; compiled by the Secretary of State, State Capitol, Room 119, Sacramento 95814. (No charge) February 1973. 206 p.

The Lieutenant Governor: The Office and Its Powers; by the Council of State Governments, Iron Works Pike, Lexington, 40505. ($2.50) March 1973. 32 p. Results of questionnaires distributed to lieutenant governors throughout the country, and a set of "principles for the office".

Constituents at the Capitol: A Citizens Guide for Participating in California Lawmaking; prepared by Legislative Birdwatchers, Inc., funded by the Planning and Conservation League. Available from Legislative Birdwatchers, Inc., 1225 8th Street, Room 310, Sacramento 95814. (Single copies $2.50; 25 or more $2.00) April 1973. 42 p.

MISCELLANEOUS

1972 Annual Report on the California Traffic Safety Program; prepared by the Business and Transportation Agency, Office of Traffic Safety, 1120 N Street, Sacramento 95814. (No charge.) February 1973. 14 p. plus appendices.

Earthquake Hazard Diminshed as California Schools Plan for Future; prepared by the State Allocation Board, 915 Capitol Mall, Room 235, Sacramento 95814. January 1973. 32 p.

Legislative Advocates and Organizations: 1973-74 Directory; published by the Joint Committee on Rules, Room 430, State Capitol, Sacramento 95814. ($2.25) March 1973. 123 p.

Supplement to Analysis of the Budget Bill 1973-74: Analysis and Recommendations with Respect to General Control Sections; by the Legislative Analyst, 925 L Street, Suite 650, Sacramento 95814. (No charge.) March 1973. 51 p.

NOTE: Unless otherwise indicated, reports may be obtained by writing the publisher, state agency, or legislative committee at the address given. Prices are listed when available.

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PEOPLE IN THE NEWS

On April 6th, Governor Reagan appointed **Salvador J. Espana Jr.**, 42, to head the state Office of Economic Opportunity, replacing Robert B. Hawkins Jr., who resigned in March. Espana, a Republican, has served as deputy director for operations of the state OEO since October 1971. He joined OEO in 1967 as a program analyst, and spent a 15-month period in 1968-69 as assistant to the Governor for community relations.

William E. Mayer, M.D., 49, director of the Department of Mental Hygiene, was appointed chief deputy director of the new Department of Health last month. Mayer, who first entered state service as chief deputy director of the Department of Mental Hygiene in 1971, has served as the department's director since November 1972. Mayer was a senior physician with the major research group that conducted medical and intelligence studies on repatriated prisoners of the Korean War. Replacing Mayer as director of Mental Hygiene is **Andrew G. Robertson,** 58, head of the mental disabilities program in the Department of Mental Hygiene. A former El Dorado County Supervisor, Robertson has served with the Department of Mental Hygiene for 18 years.

Governor Reagan has named **Edward Hill Barker,** 57, to succeed **Michael F. B. MacBan** as State Savings and Loan Commissioner. MacBan resigned in March to return to private business. Barker has headed the School of Business and Social Sciences at California Polytechnic State University in San Luis Obispo since 1971. A Republican, Barker was a professor of business economics and marketing at the University of Southern California School of Business from 1956 to 1971.

On April 10th, Assembly Speaker Bob Moretti appointed **Cathy O'Neill** to the State Educational Innovation and Planning Commission. O'Neill is a lecturer at the Center for Urban Affairs of the University of Southern California and a former VISTA supervisor. A member of the California Democratic State Central Committee and a director of the California Democratic Council, she ran unsuccessfully for the state Senate last year.

Two new members have been added to the Consumer Advisory Council; they are **Frank C. Damrell Jr.,** 35, and **Treesa Way Drury.** The positions were created by the 1972 Legislature. Damrell, a Democrat, is a member of the Modesto law firm of Damrell and Damrell, and was elected in 1972 as first president of the Consumer Federation of California. Drury, a Republican, is consumer affairs director for a Los Angeles television station. She was a member of Governor Reagan's Consumer Fraud Task Force from December 1970 to March 1973.

The 15-member Board of Governors of the State Bar of California has elected **Seth M. Hufstedler** of Los Angeles to succeed **Leonard S. Janofsky** as president, effective in September. Other newly elected officers include: **Henry H. Kilpatrick** of Vallejo, vice president and treasurer; **Michael di Leonardo** of Sunnyvale, vice president; **Joanne M. Garvey** of San Francisco, vice president; and **Mark P. Robinson** of Los Angeles, vice president. **John S. Malone** was reelected secretary.

Governor Reagan last month appointed two new members and reappointed a third to the state Transportation Board in the Business and Transportation Agency. **Irving J. Symons,** 65, a Sonora businessman, replaces **William S. Briner** who resigned. **William R. Lucius,** 58, a Healdsburg city councilman, was named to succeed **Alton M. Clem,** who also resigned. **Thomas H. Hughes,** 42, a San Jose attorney, was reappointed. He has served on the board since April 1972.

On April 15th, the volunteer California Republican Assembly unanimously elected as their president **J. R. Krugh,** a supporter of Lieutenant Governor Ed Reinecke for Governor. While CRA members will not endorse any of the Republican gubernatorial candidates until their convention next year, Krugh said that Reinecke has their support at present. The CRA is considered to represent conservative elements of the Republican Party.

Assembly Speaker Moretti late last month appointed **Leslie G. Parker,** 55, to the San Diego Regional Coastal Zone Conservation Commission. (For a complete roster, see **California Journal,** January 1973, p. 19.) Parker replaces **Marvin Kratter,** who resigned. Said Moretti, "While there are 12 positions on the San Diego Regional Commission, Les Parker's appointment represents the first and only labor representative. It is time that the conflict between environmental groups and labor unions be met head-on in a public setting where real decisions are being made." Parker is Secretary-Treasurer of the San Diego County District Council of Carpenters.

Reagan appointed **Harold E. Watts,** 52, to succeed **William G. Black** who is retiring as superintendent of the California Conservation Center at Susanville (Lassen County). Having served 26 years in the Department of Corrections, Watts has been assistant deputy director of the Management Service Division since 1970.

Gleeson L. Payne, California Insurance Commissioner, last month appointed an electronic data-processing committee to study and create methods of auditing records maintained by insurance companies on electronic data-processing installations. The following persons have been appointed: **Christy P. Armstrong,** chief insurance examiner, Department of Insurance; **John Montgomery,** chief actuary, Department of Insurance; **Robert H. Cook,** supervising insurance examiner, Department of Insurance; **Dale Dodge,** partner, Peat, Marwick, Mitchell & Co.; **Paul Horsley,** partner, Ernst and Ernst; **L. J. Bohache,** vice president, Farmers Insurance Group; **Vincent P. O'Hara,** general auditor, Fireman's Fund Insurance Co.; and **Robert M. Pederson,** second vice president and general auditor, Occidental Life Insurance Company.

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It is not necessary for the members of a political community to agree with one another. The First Amendment assumes Americans will not. But it is necessary that they understand one another.

Robert M. Hutchins

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